

The Food Beverage and Tobacco Manufacturing Award—Exposure Draft was first published on 16 November 2016. Subsequent amendments to the draft are as follows:

Publication date	Reason for amendments	Clauses affected
29 March 2019	<a href="#">Exposure Draft</a>	
29 January 2020	<a href="#">Exposure Draft</a>	
8 May 2020	<a href="#">[2019] FWCFB 8569</a> at [7] – [8]	Award Title, 1.1, 4.3
	<a href="#">[2020] FWCFB 1837, PR718141</a>	Schedule X
	<a href="#">[2020] FWCFB 2124</a> at [101]	25.11
	Administrative changes made by Modern Awards team	13.5, 14, 15, 16, 20, 21,23.7 24.4, 24.5(f), 30.6, A.1, C.1.1

## EXPOSURE DRAFT

### Food, Beverage and Tobacco Manufacturing Award ~~2020XX~~

This exposure draft has been prepared by staff of the Fair Work Commission based on the *Food, Beverages and Tobacco Manufacturing Award 2010* (the Food Manufacturing award) as at 16 November 2016 and incorporates award updates up to 8 April 2020. This exposure draft does not seek to amend any entitlements under the Food Manufacturing award. Instead, it has been prepared to address some of the structural issues identified in modern awards and to apply plain language drafting principles and techniques.

The review of this award in accordance with section 156 of the *Fair Work Act 2009* is being dealt with in matter [AM2014/268](#). Additionally a number of common issues are being dealt with by the Commission which may affect this award. Some transitional provisions have been deleted as a result of decisions made during the review.

This draft does not represent the concluded view of the Commission in this matter.

Please note some structural changes in the Food Manufacturing exposure draft are based on changes made to equivalent clauses in the *Manufacturing and Associated Industries and Occupations Award 2010* following extensive consultation in [AM2014/75](#)

### Table of Contents

<b>Part 1— Application and Operation of this Award .....</b>	<b>4</b>
1. Title and commencement .....	4
2. Definitions .....	4
3. The National Employment Standards and this award .....	5
4. Coverage.....	5
5. Individual flexibility arrangements .....	7

## Food, Beverage and Tobacco Manufacturing Award 2020

6.	Requests for flexible working arrangements .....	8
7.	Facilitative provisions .....	9
<b>Part 2— Types of Employment and Classifications .....</b>		<b>12</b>
8.	Full-time employees .....	12
9.	Part-time employees .....	12
10.	Casual employees .....	13
11.	Apprentices .....	15
<b>Part 3— Hours of Work .....</b>		<b>16</b>
12.	Ordinary hours of work.....	16
13.	Meal breaks.....	19
<b>Part 4— Wages and Allowances .....</b>		<b>20</b>
14.	Minimum rates and classifications .....	20
15.	Apprentice minimum rates.....	21
16.	Adult apprentice minimum rates.....	23
17.	Trainee minimum wages.....	23
18.	Supported wage system .....	23
19.	Payment of wages .....	23
20.	Allowances.....	24
21.	Extra rates not cumulative .....	29
22.	Superannuation .....	29
<b>Part 5— Overtime and Shiftwork Rates.....</b>		<b>31</b>
23.	Overtime .....	31
24.	Special provisions for shiftworkers .....	36
<b>Part 6— Leave and Public Holidays .....</b>		<b>38</b>
25.	Annual leave .....	38
26.	Personal/carer’s leave and compassionate leave .....	44
27.	Parental leave and related entitlements.....	44
28.	Community service leave.....	44
29.	Unpaid family and domestic violence leave .....	44
30.	Public holidays.....	44
<b>Part 7— Consultation and Dispute Resolution .....</b>		<b>45</b>
31.	Consultation about major workplace change.....	45
32.	Consultation about changes to rosters or hours of work.....	46
33.	Dispute resolution .....	47

<b>Part 8— Termination of Employment and Redundancy .....</b>	<b>47</b>
34. Termination of employment.....	47
35. Redundancy .....	48
<b>Schedule A —Classification Structure and Definitions .....</b>	<b>50</b>
<b>Schedule B —Summary of Hourly Rates of Pay .....</b>	<b>54</b>
<b>Schedule C —Summary of Monetary Allowances .....</b>	<b>58</b>
<b>Schedule D —School-based Apprentices .....</b>	<b>60</b>
<b>Schedule E —National Training Wage.....</b>	<b>61</b>
<b>Schedule F —Supported Wage System .....</b>	<b>71</b>
<b>Schedule G —Agreement for Time Off Instead of Payment for Overtime.....</b>	<b>74</b>
<b>Schedule H —Agreement to Take Annual Leave in Advance.....</b>	<b>75</b>
<b>Schedule I —Agreement to Cash Out Annual Leave.....</b>	<b>76</b>
<b>Schedule J —Part-day Public Holidays.....</b>	<b>77</b>
<b>Schedule X —Additional Measures During the COVID-19 Pandemic .....</b>	<b>78</b>

## Part 1—Application and Operation of this Award

### 1. Title and commencement

Clause 1.1 updated to incorporate changes resulting from [\[2019\] FWCFB 8569](#) at [7] – [8]

- 1.1 This award is the *Food, Beverage and Tobacco Manufacturing Award 20~~20XX~~*.
- 1.2 This modern award commenced operation on 1 January 2010. The terms of the award have been varied since then.
- 1.3 A variation to this award does not affect any right, privilege, obligation or liability that a person acquired, accrued or incurred under the award as it existed prior to that variation.

### 2. Definitions

In this award, unless the contrary intention appears:

**Act** means the *Fair Work Act 2009* (Cth).

**adult apprentice** means a person of 21 years of age or over at the time of entering into a training agreement for an apprenticeship.

**all purposes** means the payment will be included in the rate of pay of an employee who is entitled to the allowance or loading, when calculating any penalties or loadings or payment while they are on annual leave (see clause 20.2(a)).

**casual ordinary hourly rate** means the hourly rate for a casual employee for the employee's classification prescribed by this award, inclusive of the casual loading which is payable for all purposes. Where an employee is entitled to an additional all-purpose allowance, this allowance forms part of that employee's casual ordinary hourly rate.

**Defined benefit member** has the meaning given by the *Superannuation Guarantee (Administration) Act 1992* (Cth).

**employee** means national system employee within the meaning of the [Act](#).

**employer** means national system employer within the meaning of the [Act](#).

**exempt public sector superannuation scheme** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth).

**food, beverage and tobacco manufacturing** has the meaning given in clause 4.2.

**MySuper product** has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth).

**NES** means the National Employment Standards as contained in [sections 59 to 131](#) of the [Act](#).

**on-hire** means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client.

**ordinary hourly rate** means the hourly rate for the employee's classification specified in clauses 14—Minimum [rates](#) and classifications and 15—Apprentice minimum [rates](#), plus any allowances specified as being included in the employee's ordinary hourly rate or payable for all purposes.

**standard rate** means the minimum hourly rate prescribed for the Level 5 classification in clause 14.1(a).

### 3. The National Employment Standards and this award

- 3.1 The [NES](#) and this award contain the minimum conditions of employment for employees covered by this award.
- 3.2 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.
- 3.3 The employer must ensure that copies of the award and the [NES](#) are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

### 4. Coverage

Clause 4.3 updated to incorporate changes resulting from [\[2019\] FWCFB 8569](#) at [7] – [8]

- 4.1 This industry award covers employers throughout Australia in the **food, beverage and tobacco manufacturing industry** and their employees in the classifications in this award to the exclusion of any other modern award.
- 4.2 **Food, beverage and tobacco manufacturing** means the preparing, cooking, baking, blending, brewing, fermenting, preserving, filleting, gutting, freezing, refrigerating, decorating, washing, grading, processing, distilling, manufacturing and milling of food, beverage and tobacco products, including stock feed and pet food, and ancillary activities such as:
- (a) the receipt, storing and handling of ingredients and raw materials to make food, beverage and tobacco products, including stock feed and pet food;
  - (b) the bottling, canning, packaging, labelling, palletising, storing, preparing for sale, packing and despatching of food, beverage and tobacco products, including stock feed and pet food; and
  - (c) the cleaning and sanitising of tools, equipment and machinery used to produce food, beverage and tobacco products, including stock feed and pet food.
- 4.3 This award does not cover employers or employees covered by:
- (a) the *Clerks—Private Sector Award 2020*;

## Food, Beverage and Tobacco Manufacturing Award 2020

- (b) the *Fast Food Industry Award 20~~10XX~~*;
- (c) the *General Retail Industry Award 20~~20XX~~*;
- (d) the *Horticulture Award 20~~20XX~~*;
- (e) the *Hospitality Industry (General) Award 20~~2020~~*;
- (f) the *Manufacturing and Associated Industries and Occupations Award 2020*;
- (g) the *Meat Industry Award 2020*;
- (h) the *Poultry Processing Award 2020*;
- (i) the *Seafood Processing Award 2020*; or
- (j) the *Wine Industry Award 20~~20XX~~*.

**4.4** This award covers any employer which supplies labour on an on-hire basis in the food, beverage and tobacco manufacturing industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. Clause 4.4 operates subject to the exclusions from coverage in this award.

**4.5** This award covers employers which provide group training services for apprentices and/or trainees engaged in the food, beverage and tobacco manufacturing industry and/or parts of that industry and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. Clause 4.5 operates subject to the exclusions from coverage in this award.

**4.6** This award does not cover:

- (a) an employee excluded from award coverage by the [Act](#);
- (b) employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
- (c) employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.

**4.7** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

## **5. Individual flexibility arrangements**

- 5.1** Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:
- (a) arrangements for when work is performed; or
  - (b) overtime rates; or
  - (c) penalty rates; or
  - (d) allowances; or
  - (e) annual leave loading.
- 5.2** An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.
- 5.3** An agreement may only be made after the individual employee has commenced employment with the employer.
- 5.4** An employer who wishes to initiate the making of an agreement must:
- (a) give the employee a written proposal; and
  - (b) if the employer is aware that the employee has, or reasonably should be aware that the employee may have, limited understanding of written English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the employee understands the proposal.
- 5.5** An agreement must result in the employee being better off overall at the time the agreement is made than if the agreement had not been made.
- 5.6** An agreement must do all of the following:
- (a) state the names of the employer and the employee; and
  - (b) identify the award term, or award terms, the application of which is to be varied; and
  - (c) set out how the application of the award term, or each award term, is varied; and
  - (d) set out how the agreement results in the employee being better off overall at the time the agreement is made than if the agreement had not been made; and
  - (e) state the date the agreement is to start.
- 5.7** An agreement must be:
- (a) in writing; and
  - (b) signed by the employer and the employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

- 5.8** Except as provided in clause 5.7(b), an agreement must not require the approval or consent of a person other than the employer and the employee.
- 5.9** The employer must keep the agreement as a time and wages record and give a copy to the employee.
- 5.10** The employer and the employee must genuinely agree, without duress or coercion to any variation of an award provided for by an agreement.
- 5.11** An agreement may be terminated:
- (a) at any time, by written agreement between the employer and the employee; or
  - (b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

NOTE: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in section 144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see section 145 of the [Act](#)).

- 5.12** An agreement terminated as mentioned in clause 5.11(b) ceases to have effect at the end of the period of notice required under that clause.
- 5.13** The right to make an agreement under clause 5 is additional to, and does not affect, any other term of this award that provides for an agreement between an employer and an individual employee.

## **6. Requests for flexible working arrangements**

### **6.1 Employee may request change in working arrangements**

Clause 6 applies where an employee has made a request for a change in working arrangements under section 65 of the [Act](#).

NOTE 1: Section 65 of the [Act](#) provides for certain employees to request a change in their working arrangements because of their circumstances, as set out in section 65(1A). Clause 6 supplements or deals with matters incidental to the [NES](#) provisions.

NOTE 2: An employer may only refuse a section 65 request for a change in working arrangements on 'reasonable business grounds' (see section 65(5) and (5A)).

NOTE 3: Clause 6 is an addition to section 65.

### **6.2 Responding to the request**

Before responding to a request made under section 65, the employer must discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances having regard to:

- (a) the needs of the employee arising from their circumstances;
- (b) the consequences for the employee if changes in working arrangements are not made; and
- (c) any reasonable business grounds for refusing the request.

NOTE 1: The employer must give the employee a written response to an employee's section 65 request within 21 days, stating whether the employer grants or refuses the request (section 65(4)).

NOTE 2: If the employer refuses the request, then the written response must include details of the reasons for the refusal (section 65(6)).

### **6.3 What the written response must include if the employer refuses the request**

- (a) Clause 6.3 applies if the employer refuses the request and has not reached an agreement with the employee under clause 6.2.
- (b) The written response under section 65(4) must include details of the reasons for the refusal, including the business ground or grounds for the refusal and how the ground or grounds apply.
- (c) If the employer and employee could not agree on a change in working arrangements under clause 6.2, then the written response under section 65(4) must:
  - (i) state whether or not there are any changes in working arrangements that the employer can offer the employee so as to better accommodate the employee's circumstances; and
  - (ii) if the employer can offer the employee such changes in working arrangements, set out those changes in working arrangements.

### **6.4 What the written response must include if a different change in working arrangements is agreed**

If the employer and the employee reached an agreement under clause 6.2 on a change in working arrangements that differs from that initially requested by the employee, then the employer must provide the employee with a written response to their request setting out the agreed change(s) in working arrangements.

### **6.5 Dispute resolution**

Disputes about whether the employer has discussed the request with the employee and responded to the request in the way required by clause 6, can be dealt with under clause 33—Dispute resolution.

## **7. Facilitative provisions**

### **7.1 Agreement to vary award provisions**

- (a) This award contains facilitative provisions which allow agreement between an employer and employees on how specific award provisions are to apply at the

workplace or a section or sections of it. The facilitative provisions are identified in clauses 7.2, 7.3 and 7.4.

- (b) The specific award provisions establish both the standard award condition and the framework within which agreement can be reached as to how the particular provisions should be applied in practice.

**7.2 Facilitation by individual agreement**

- (a) The following facilitative provisions can be utilised by agreement between an employer and an individual employee:

<b>Clause number</b>	<b>Provision</b>
9.2	Minimum engagement for part-time employees
10.4	Minimum engagement for casuals
12.7	Make up time
13.5	Meal breaks
23.7	Time off instead of payment for overtime
23.9(d)	Rest break
23.10(d)	Rest period after overtime
25.10	Agreement to take annual leave in advance
25.13	Agreement to cash out annual leave
30.4	Substitution of public holidays

- (b) The agreement reached must be kept by the employer as a time and wages record.

**7.3 Facilitation by majority or individual agreement**

- (a) The following facilitative provisions can be utilised by agreement between the employer and the majority of employees in the workplace or a section or sections of it, or the employer and an individual employee:

<b>Clause number</b>	<b>Provision</b>
10.6(j)	Period for casual election to convert
12.2(c)	Ordinary hours of work for day workers on weekends
12.2(d)	Variation to the spread of hours for day workers
12.5(a)	Methods of arranging ordinary working hours
13.1(b)	Working in excess of 5 hours without a meal break
19.1(b)	Payment of wages
24.2	Variation to the spread of hours for shiftworkers

- (b) Where agreement is reached between the employer and the majority of employees in the workplace or a section or sections of it to implement a facilitative provision in clause 7.3(a), the employer must not implement that agreement unless:

- (i) agreement is also reached between the employer and each individual employee to be covered by the facilitative provision; and
  - (ii) the agreement reached is kept by the employer as a time and wages record.
- (c) Where no agreement has been sought by the employer with the majority of employees in accordance with clause 7.3(b), the employer may reach agreement with individual employees in the workplace or a section or sections of it and such agreement binds the individual employee provided the agreement reached is kept by the employer as a time and wages record and provided the agreement is only with an individual employee or a number of individual employees less than the majority in the workplace or a section or sections of it.

**7.4 Facilitation by majority agreement**

- (a) The following facilitative provisions may only be utilised by agreement between the employer and the majority of employees in the workplace or a section or sections of it:

<b>Clause number</b>	<b>Provision</b>
12.3(d)	Ordinary hours of work, continuous shiftworkers
12.4(c)	Ordinary hours of work, non-continuous shiftworkers
12.5(c)	12 hour days or shifts
24.5(e)	Public holiday shifts
25.2	Conversion of annual leave to hourly entitlement
25.11(g)	Annual close down

- (b) Where agreement is reached with the majority of employees in the workplace or a section or sections of it to implement a facilitative provision in clause 7.4(a), that agreement binds all such employees provided the agreement reached is kept by the employer as a time and wages record.

**(c) Additional safeguard**

- (i) An additional safeguard applies to:

<b>Clause number</b>	<b>Provision</b>
12.3(d)	Ordinary hours of work, continuous shiftworkers
12.4(c)	Ordinary hours of work, non-continuous shiftworkers
19.1(b)	Payment of wages

- (ii) The additional safeguard requires that the unions which have members employed at an enterprise covered by this award must be informed by the employer of the intention to use the facilitative provision and be given a reasonable opportunity to participate in the negotiations regarding its use. Union involvement in this process does not mean that the consent of the union is required prior to the introduction of agreed facilitative arrangements at the enterprise.

**7.5 Majority vote at the initiation of the employer**

A vote of employees in the workplace or a section or sections of it, which is taken in accordance with clauses 7.3 and 7.4 to determine if there is majority employee support for the implementation of a facilitative provision, is of no effect unless taken with the agreement of the employer.

**Part 2—Types of Employment and Classifications**

**8. Full-time employees**

Any employee not specifically engaged as a part-time or casual employee is for all purposes of this award a full-time employee, unless otherwise specified.

**9. Part-time employees**

**9.1** An employee may be engaged to work on a part-time basis involving a regular pattern of hours which average less than 38 ordinary hours per week.

**9.2** A part-time employee must be engaged and paid for a minimum of 4 consecutive hours per day or shift. In order to meet their personal circumstances, a part-time employee may request and the employer may agree to an engagement for no less than 3 consecutive hours per day or shift. The agreement reached must be recorded by the employer on the employee's time and wages record.

**9.3** Before starting part-time employment, the employee and employer must agree in writing on:

- (a) the hours to be worked by the employee;
- (b) the days on which they will be worked;
- (c) the starting and finishing times for the work; and
- (d) the classification applying to the work to be performed in accordance with Schedule A—Classification Structure and Definitions.

**9.4** The terms of the agreement in clause 9.3 may be varied by consent in writing.

**9.5** The agreement under clause 9.3 or any variation to it under clause 9.4 must be retained by the employer. A copy of the agreement and any variation to it must be provided to the employee by the employer.

**9.6** Except as otherwise provided in this award, a part-time employee must be paid for the hours agreed on in accordance with clauses 9.3 and 9.4.

**9.7** The terms of this award will apply pro rata to part-time employees on the basis that ordinary weekly hours for full-time employees are 38.

- 9.8** A part-time employee who is required by the employer to work in excess of the hours agreed under clauses 9.3 and 9.4 must be paid overtime in accordance with clause 23—Overtime.
- 9.9** Where the part-time employee's normal paid hours fall on a public holiday prescribed in the [NES](#) and work is not performed by the employee, the employee must not lose pay for the day. Where the part-time employee works on the public holiday, the part-time employee must be paid in accordance with clauses 12.2(g), 23.6 and 24.5.

## **10. Casual employees**

- 10.1** A casual employee is one engaged and paid as a casual employee.
- 10.2** A casual employee working ordinary time must be paid:
- (a) the ordinary hourly rate prescribed in clause 14—Minimum rates and classifications for the work being performed; plus
  - (b) a casual loading of **25%** of the ordinary hourly rate.
- 10.3** The loading constitutes part of the casual employee's all-purpose rate.
- 10.4** On each occasion a casual employee is required to attend work the employee must be paid for a minimum of 4 consecutive hours' work. In order to meet their personal circumstances a casual employee may request and the employer may agree to an engagement of no less than 3 consecutive hours.
- 10.5** When engaging a casual employee, the employer must inform the employee:
- (a) that the employee is employed as a casual;
  - (b) of the name of the employer;
  - (c) of their classification level and rate of pay; and
  - (d) of the likely number of hours they will be required to perform.
- 10.6 Casual conversion to full-time or part-time employment**
- (a) A casual employee, other than an **irregular casual employee**, who has been engaged by a particular employer for a sequence of periods of employment under this award during a period of six months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process.
  - (b) Every employer of such an employee must give the employee notice in writing of the provisions of clause 10.6 within four weeks of the employee having attained such period of six months. The employee retains their right of election under clause 10.6 if the employer fails to comply with clause 10.6(b).
  - (c) Any such casual employee who does not within four weeks of receiving written notice elect to convert their contract of employment to full-time or part-time employment is deemed to have elected against any such conversion.

## Food, Beverage and Tobacco Manufacturing Award 2020

- (d) Any casual employee who has a right to elect under clause 10.6(a), on receiving notice under clause 10.6(b) or after the expiry of the time for giving such notice, may give four weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment, and within four weeks of receiving such notice the employer must consent to or refuse the election but must not unreasonably so refuse.
- (e) Once a casual employee has elected to become and been converted to a full-time or part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (f) If a casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with clause 10.6(d), the employer and employee must, subject to clause 10.6(d), discuss and agree on:
  - (i) which form of employment the employee will convert to, being full-time or part-time; and
  - (ii) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in clause 9—Part-time employees.
- (g) An employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert their contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, unless other arrangements are agreed on between the employer and employee.
- (h) Following such agreement being reached, the employee converts to full-time or part-time employment.
- (i) Where, in accordance with clause 10.6(d) an employer refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.
- (j) By agreement between the employer and the majority of the employees in the relevant workplace or a section or sections of it, or with the casual employee concerned, the employer may apply clause 10.6(a) as if the reference to 6 months is a reference to 12 months, but only in respect of a currently engaged individual employee or group of employees. Any such agreement reached must be kept by the employer as a time and wages record. Any such agreement reached with an individual employee may only be reached within the 2 months prior to the period of 6 months referred to in clause 10.6(a).
- (k) For the purposes of clause 10.6, an **irregular casual employee** is one who has been engaged to perform work on an occasional or non-systematic or irregular basis.

**10.7** An employee must not be engaged and re-engaged to avoid any obligation under this award.

## **11. Apprentices**

- 11.1** The terms of this award apply to apprentices, including adult apprentices, except where otherwise stated.
- 11.2** Where an apprentice is required to attend block release training for training identified in or associated with their training contract, and the training requires an overnight stay, the employer must pay for the excess reasonable travel costs incurred by the apprentice in the course of travelling to and from the training. Clause 11.2 will not apply where the apprentice could attend an alternative Registered Training Organisation (RTO) and the use of the more distant RTO is not agreed between the employer and the apprentice.
- 11.3** For the purposes of clause 11.2, excess reasonable travel costs include the total costs of reasonable transportation (including transportation of tools where required), accommodation costs incurred while travelling (where necessary) and reasonable expenses incurred while travelling, including meals, which exceed those incurred in travelling to and from work. For the purposes of clause 11.3, excess travel costs do not include payment for travelling time or expenses incurred while not travelling to and from block release training.
- 11.4** The amount payable by an employer under clause 11.2 may be reduced by an amount the apprentice is eligible to receive for travel costs to attend block release training under a Government apprentice assistance scheme. This will only apply if an apprentice has either received such assistance or their employer has advised them in writing of the availability of such assistance.
- 11.5** All training fees charged by an RTO for prescribed courses and the cost of all prescribed textbooks (excluding those textbooks which are available in the employer's technical library) for the apprenticeship, which are paid by an apprentice, will be reimbursed by the employer within 6 months of starting the apprenticeship or the relevant stage of the apprenticeship, or within 3 months of starting the training provided by the RTO, whichever is the later, unless there is unsatisfactory progress.
- 11.6** An employer may meet its obligations under clause 11.5 by paying any fees and/or cost of textbooks directly to the RTO.
- 11.7** An apprentice is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- 11.8** Time spent by an apprentice in attending any training and/or assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the apprentice's wages and determining the apprentice's employment conditions. Clause 11.8 operates subject to the provisions of Schedule D—School-based Apprentices.
- 11.9** No apprentice will, except in an emergency, work or be required to work overtime or shiftwork at times which would prevent their attendance at training consistent with their training contract.
- 11.10 School-based apprentices**
- See Schedule D—School-based Apprentices.

## Part 3—Hours of Work

### 12. Ordinary hours of work

#### 12.1 Hours of work

- (a) Maximum weekly hours and requests for flexible working arrangements are provided for in the [NES](#).
- (b) Facilitative provisions in clauses 12.2 to 12.5 operate in conjunction with clause 7.3.

#### 12.2 Ordinary hours of work—day workers

- (a) Subject to clause 12.5, the ordinary hours of work for day workers are an average of 38 per week but not exceeding 152 hours in 28 days.
- (b) The ordinary hours for day workers will not exceed 8 per day unless otherwise agreed in accordance with clause 12.5.
- (c) The ordinary hours of work may be worked on any day or all of the days of the week, Monday to Friday. The days on which ordinary hours are worked may include Saturday and Sunday subject to agreement between the employer and the majority of employees concerned. Agreement in this respect may also be reached between the employer and an individual employee.
- (d) The ordinary hours of work are to be worked continuously, except for meal breaks, at the discretion of the employer between 6.00 am and 6.00 pm. The spread of hours (6.00 am to 6.00 pm) may be altered by up to one hour at either end of the spread, by agreement between an employer and the majority of employees concerned or, in appropriate circumstances, between the employer and an individual employee.
- (e) Any work performed outside the spread of hours must be paid for at overtime rates. However, any work performed by an employee prior to the spread of hours which is continuous with ordinary hours for the purpose, for example, of getting the plant in a state of readiness for production work is to be regarded as part of the 38 ordinary hours of work.

#### (f) Ordinary hours of work—weekends

Where agreement is reached in accordance with clause 12.2(c), the rate to be paid to a day worker for ordinary time worked is:

- (i) between midnight on Friday and midnight on Saturday—**150%** of the ordinary hourly rate; and
- (ii) between midnight on Saturday and midnight on Sunday—**200%** of the ordinary hourly rate.

**(g) Ordinary hours of work—public holidays**

A day worker required to work on a public holiday must be paid for a minimum of 3 hours' work at the rate of **250%** of the ordinary hourly rate. The **250%** rate must be paid to the employee until the employee is relieved from duty.

**12.3 Ordinary hours of work—continuous shiftworkers**

- (a) Continuous shiftwork** means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least 6 consecutive days without interruption except for breakdowns or meal breaks or due to unavoidable causes beyond the control of the employer.
- (b)** Subject to clause 12.3(d), the ordinary hours of continuous shiftworkers are, at the discretion of the employer, to average 38 hours per week inclusive of meal breaks and must not exceed 152 hours in 28 consecutive days. Continuous shiftworkers are entitled to a 20 minute meal break on each shift which must be counted as time worked.
- (c)** The ordinary hours for continuous shiftworkers will not exceed 8 per shift unless otherwise agreed in accordance with clause 12.5.
- (d)** By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days but does not exceed 12 months.
- (e)** Except at the regular changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.

**12.4 Ordinary hours of work—non-continuous shiftworkers**

- (a)** Subject to clause 12.4(c), the ordinary hours of work for non-continuous shiftworkers are an average of 38 per week and must not exceed 152 hours in 28 consecutive days.
- (b)** The ordinary hours for non-continuous shiftworkers will not exceed 8 per shift unless otherwise agreed in accordance with clause 12.5.
- (c)** By agreement between the employer and the majority of employees concerned, a roster system may operate on the basis that the weekly average of 38 ordinary hours is allowed over a period which exceeds 28 consecutive days but does not exceed 12 months.
- (d)** The ordinary hours of work must be worked continuously, except for meal breaks, at the discretion of the employer.
- (e)** Except at changeover of shifts, an employee must not be required to work more than one shift in each 24 hours.

**12.5 Methods of arranging ordinary working hours**

- (a)** Subject to the employer's right to fix the daily hours of work for day workers from time to time within the spread of hours referred to in clause 12.2(d) and the

## Food, Beverage and Tobacco Manufacturing Award 2020

employer's right to fix the starting and finishing time of shifts from time to time, the arrangement of ordinary working hours must be by agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned. This does not preclude the employer reaching agreement with individual employees about how their working hours are to be arranged.

- (b) The matters on which agreement may be reached include:
- (i) how the hours are to be averaged within a work cycle established in accordance with clauses 12.2, 12.3 and 12.4;
  - (ii) the duration of the work cycle for day workers provided that the duration does not exceed 3 months;
  - (iii) rosters which specify the starting and finishing times of working hours;
  - (iv) a period of notice of a rostered day off which is less than 4 weeks;
  - (v) substitution of rostered days off;
  - (vi) accumulation of rostered days off;
  - (vii) arrangements which allow for flexibility in relation to the taking of rostered days off; and
  - (viii) any arrangements of ordinary hours which exceed 8 hours in any day.

(c) **Twelve hour days or shifts**

By agreement between an employer and the majority of employees in the enterprise or part of the enterprise concerned, 12 hour days or shifts may be introduced subject to:

- (i) proper health monitoring procedures being introduced;
  - (ii) suitable roster arrangements being made;
  - (iii) proper supervision being provided;
  - (iv) adequate breaks being provided; and
  - (v) a trial or review process being jointly implemented by the employer and the employees or their representatives.
- (d) Payment for work on a shift other than a rostered shift is in accordance with clause 24.3(e).

### 12.6 Daylight saving

For work performed which spans the start or finish of a system of daylight saving as prescribed by relevant State or territory legislation, an employee will be paid according to adjusted time (i.e. the time on the clock at the beginning of work and the time on the clock at the end of work).

## 12.7 Make up time

- (a) An employee may elect, with the consent of the employer, to work make up time under which the employee takes time off during ordinary hours, and works those hours at a later time, during the spread of ordinary hours provided in this award.
- (b) An employee on shiftwork may elect, with the consent of their employer, to work make up time under which the employee takes time off during ordinary hours and works those hours at a later time, at the rate which would have been applicable to the hours taken off.

## 13. Meal breaks

Administrative changes to clause 13.5 made by Modern Awards team

- 13.1 An employee must not be required to work for more than 5 hours without a break for a meal except in the following circumstances:
  - (a) in cases where canteen or other facilities are limited and require that meal breaks be staggered and as a result it is not practical for all employees to take a meal break within 5 hours, an employee must not be required to work for more than 6 hours without a break for a meal; or
  - (b) by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of 5 hours but not more than 6 hours without a meal break, at the rate of pay applying to the employee immediately prior to the end of the fifth hour of work.
- 13.2 The time of taking a scheduled meal break or rest break by one or more employees may be altered by an employer if it is necessary to do so in order to meet a requirement for continuity of operations.
- 13.3 An employer may stagger the time of taking meal and rest breaks to meet operational requirements.
- 13.4 Subject to clause 13.1, an employee must work during meal breaks at the applicable rate of pay whenever instructed to do so for the purpose of making good any breakdown of plant or for routine maintenance of plant which can only be done while the plant is idle.
- 13.5 Except as otherwise provided in clause 13—Meal breaks and except where any alternative arrangement is entered into by agreement between the employer and the employee concerned, employees must be paid as follows for all work done during meal hours and thereafter until a meal break is taken:
  - (a) except in the circumstances referred to in clauses s 13.5(b), ~~(e)~~13.5(c) and ~~(d)~~13.5(d): **150%** of the ordinary hourly rate;
  - (b) where the unpaid meal break is during ordinary time on a Saturday or Sunday: **200%** of the ordinary hourly rate;

- (c) where the unpaid meal break is during ordinary time on a shift on which the employee is entitled to a **12.5%** loading; **162.5%** of the ordinary hourly rate;
- (d) where the unpaid meal break is during ordinary time on a shift on which the employee is entitled to a **15%** loading; **165%** of the ordinary hourly rate;
- (e) where the unpaid meal break is during ordinary time on a shift on which the employee is entitled to a **30%** loading; **180%** of the ordinary hourly rate.

## Part 4—Wages and Allowances

### 14. Minimum wages-rates and classifications

Administrative changes to clauses 14.1 and 14.2 made by Modern Awards team

#### 14.1 Adult employee minimum wagesrates

- (a) An employer must pay adult employees (other than one specified in clause 14.1(c)) the following minimum wages-rates for ordinary hours worked by the employee.

Classification level	Minimum weekly <u>wagerate</u> (full-time employee)	Minimum hourly rate
	\$	\$
Level 1	740.80	19.49
Level 2	762.10	20.06
Level 3	791.30	20.82
Level 4	818.50	21.54
Level 5	862.50	22.70
Level 6	889.50	23.41

- (b) For the purposes of clause 14.1(a), any entitlement to a minimum wage-rate expressed to be by the week means any entitlement which an employee would receive for performing 38 hours of work.
- (c) The following adult employees are not entitled to the minimum wages-rates in clause 14.1(a):
  - (i) an adult apprentice (see clause 16—Adult apprentice minimum rates);
  - (ii) a trainee (see clause Schedule E—National Training Wage); and
  - (iii) an employee receiving a supported wage (see Schedule F—Supported Wage System).
- (d) The definitions of the classifications referred to in clause 14.1(a) are set out in Schedule A—Classification Structure and Definitions.

NOTE: See Schedule B—Summary of Hourly Rates of Pay for a summary of hourly rates of pay, including overtime and penalty rates.

**14.2 Unapprenticed junior minimum ~~wages~~ rates**

The minimum ~~wages~~ rates for an unapprenticed junior are:

Age	% of Level 2
Under 16 years	60
At 16 years	70
At 17 years	80
At 18 years	90

**14.3 Higher duties**

- (a) An employee engaged for more than 2 hours during one day or shift on duties carrying a higher minimum rate than their ordinary classification must be paid the higher minimum rate for the day or shift.
- (b) If an employee is engaged on duties carrying a higher minimum rate for 2 hours or less during one day or shift, they must be paid the higher minimum rate for the time worked at the higher level.

**15. Apprentice minimum ~~wages~~ rates**

Administrative changes to clause 15 made by Modern Awards team

**15.1** The minimum ~~wages~~ rates for an apprentice who started their apprenticeship before 1 January 2014 except as provided for in clause 16—Adult apprentice minimum rates are set out in the following table:

Relevant attribute of the person at the time of entering into a training agreement as an apprentice								
Stage of apprenticeship	Column 1		Column 2		Column 3		Column 4	
	Completed Year 10 or less		Completed Year 11		Completed Year 12		Adult (21 years or over)	
	Minimum weekly <del>wage</del> <u>rate</u>	Minimum hourly rate	Minimum weekly <del>wage</del> <u>rate</u>	Minimum hourly rate	Minimum weekly <del>wage</del> <u>rate</u>	Minimum hourly rate	Minimum weekly <del>wage</del> <u>rate</u>	Minimum hourly rate
	\$	\$	\$	\$	\$	\$	\$	\$
Stage 1	362.25	9.53	414.00	10.89	436.60	11.49	655.50	17.25
Stage 2	474.38	12.48	474.38	12.48	508.10	13.37	740.80	19.49
Stage 3	646.88	17.02	646.88	17.02	646.88	17.02	762.10	20.06
Stage 4	759.00	19.97	759.00	19.97	791.30	20.82	791.30	20.82

**15.2** The minimum ~~wages~~ rates in the table in clause 15.1 are established on the following basis:

**Food, Beverage and Tobacco Manufacturing Award 2020**

<b>Relevant attribute of the person at the time of entering into a training agreement as an apprentice</b>				
<b>Stage of apprenticeship</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
	<b>Completed Year 10 or less</b>	<b>Completed Year 11</b>	<b>Completed Year 12</b>	<b>Adult (21 years or over)</b>
Stage 1	42% of the Level 5 rate	48% of the Level 5 rate	The relevant rate applicable to a trainee commencing after year 12 under National Training Wage Skill Level A.	76% of the Level 5 rate
Stage 2	55% of the Level 5 rate	55% of the Level 5 rate	The relevant rate applicable to a trainee commencing at year 12 plus one year under National Training Wage Skill Level A.	Level 1 rate
Stage 3	75% of the Level 5 rate	75% of the Level 5 rate	75% of the Level 5 rate	Level 2 rate
Stage 4	88% of the Level 5 rate	88% of the Level 5 rate	Level 3 rate	Level 3 rate

**15.3** The minimum ~~wages-rates~~ for an apprentice who started their apprenticeship on or after 1 January 2014 except as provided for in clause 16—Adult apprentice minimum ~~rates~~ are set out in the following table:

<b>Relevant attribute of the person at the time of entering into a training agreement as an apprentice</b>									
<b>Stage of apprenticeship</b>	<b>Has not completed Year 12</b>			<b>Has completed Year 12</b>			<b>Adult apprentice aged 21+</b>		
	<b>% of Level 5</b>	<b>Min weekly <del>wagerate</del> e</b>	<b>Min hourly rate</b>	<b>% of Level 5</b>	<b>Min weekly <del>wagerate</del> e</b>	<b>Min hourly rate</b>	<b>Wage rate</b>	<b>Min weekly <del>wagerate</del> e</b>	<b>Min hourly rate</b>
		\$	\$		\$	\$		\$	\$
Stage 1	50%	431.25	11.35	55%	474.38	12.48	80% of Level 5	690.00	18.16
Stage 2	60%	517.50	13.62	65%	560.63	14.75	Level 1 rate	740.80	19.49
Stage 3	75%	646.88	17.02	75%	646.88	17.02	Level 2 rate	762.10	20.06
Stage 4	88%	759.00	19.97	88%	759.00	19.97	Level 3 rate	791.30	20.82

**15.4** An employee who is under 21 years of age on the expiration of their apprenticeship and thereafter works as a minor in the occupation to which the employee was appointed must be paid not less than the adult minimum ~~wage-rates~~ prescribed for the classification.

**15.5** For school-based apprentices see Schedule D—School-based Apprentices.

## 16. Adult apprentice minimum ~~wages~~rates

Administrative changes to clause 16 made by Modern Awards team

**16.1** A person employed by an employer under this award immediately prior to entering into a training agreement as an adult apprentice with that employer must not suffer a reduction in their minimum wage by virtue of entering into the training agreement. For the purpose only of fixing a minimum ~~wage rate~~, the adult apprentice must continue to receive the minimum ~~wage-rate~~ that applies to the classification specified in clause 14—Minimum rates and classifications in which the adult apprentice was engaged immediately prior to entering into the training agreement.

**16.2** Subject to clause 16.1, the minimum ~~wages-rates~~ for an adult apprentice are set out in clause 15—Apprentice minimum rates.

## 17. Trainee minimum wages

For employees undertaking a traineeship, see Schedule E—National Training Wage.

## 18. Supported wage system

For employees who, because of the effects of a disability, are eligible for a supported wage see Schedule F—Supported Wage System.

## 19. Payment of wages

NOTE: Regulations 3.33(3) and 3.46(1)(g) of *Fair Work Regulations 2009* set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.

### 19.1 Period of payment

- (a) Except as provided in clause 19.1(b), wages must be paid weekly or fortnightly, either:
  - (i) according to the actual ordinary hours worked each week or fortnight; or
  - (ii) according to the average number of ordinary hours worked each week or fortnight.
- (b) By agreement between the employer and the majority of employees in the relevant enterprise, wages may be paid 3 weekly, 4 weekly or monthly. Agreement in this respect may also be reached between the employer and an individual employee.

### 19.2 Method of payment

Wages must be paid by cash, cheque or electronic funds transfer into the employee's bank or other recognised financial institution account.

### 19.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee on the next working day.

### 19.4 Day off coinciding with pay day

Where an employee is paid wages by cash or cheque and the employee is, by virtue of the arrangement of their ordinary hours, to take a day off on a day which coincides with pay day, such employee must be paid no later than the working day immediately following pay day. However, if the employer is able to make suitable arrangements, wages may be paid on the working day preceding pay day.

### 19.5 Wages to be paid during working hours

- (a) Where an employee is paid wages by cash or cheque such wages are to be paid during ordinary working hours.
- (b) If an employee is paid wages by cash and is kept waiting for their wages on pay day, after the usual time for ceasing work, the employee is to be paid at overtime rates for the period they are kept waiting.

### 19.6 Absences from duty under an averaging system

Where an employee's ordinary hours in a week are greater or less than 38 hours and such employee's pay is averaged to avoid fluctuating wage payments, the following is to apply:

- (a) the employee will accrue a credit for each day they work ordinary hours in excess of the daily average;
- (b) the employee will not accrue a credit for each day of absence from duty, other than on annual leave, long service leave, public holidays, paid personal/carer's leave, workers compensation, paid compassionate leave, paid training leave or jury service; and
- (c) an employee absent for part of a day, other than on annual leave, long service leave, public holidays, paid personal/carer's leave, workers compensation, paid compassionate leave, paid training leave or jury service, accrues a proportion of the credit for the day, based on the proportion of the working day that the employee was in attendance.

## 20. Allowances ~~and special rates~~

Administrative changes to clause 20.2(f) made by Modern Awards team

NOTE: Regulations 3.33(3) and 3.46(1)(g) of *Fair Work Regulations 2009* set out the requirements for pay records and the content of payslips including the requirement to separately identify any allowance paid.

- 20.1 Employers must pay to an employee the allowances the employee is entitled to under clause 20.

NOTE: See Schedule C—Summary of Monetary Allowances for a summary of monetary allowances and method of adjustment.

**20.2 Wage-related allowances**

**(a) All-purpose allowances**

Allowances paid for **all purposes** are included in the rate of pay of an employee who is entitled to the allowance, when calculating any penalties or loadings or payment while they are on annual leave. The following allowances are paid for all purposes under this award:

- (i) Leading hand allowance (clause 20.2(b));
- (ii) Heavy vehicle driving allowance (clause 20.2(c)); and
- (iii) Boiler attendants allowance (clause 20.2(d)).

**(b) Leading hands**

A leading hand in charge of 3 or more people must be paid:

In charge of	per week extra
	\$
3–10 employees	37.75
11–20 employees	56.39
more than 20 employees	71.78

**(c) Heavy vehicle driving allowance**

An employee who is required to drive a vehicle of more than 3 tonnes Gross Vehicle Weight (GVW) must be paid while they are engaged on such work:

Vehicle size	per hour extra
	\$
over 3 tonnes GVW and up to 4.5 tonnes GVW	0.14
over 4.5 tonnes GVW and up to 14.95 tonnes GVW	1.14
over 14.95 tonnes GVW	1.50
a semi-trailer	2.70

**(d) Boiler attendants allowance**

An employee holding a Boiler Attendants Certificate and appointed by the employer to act as a boiler attendant must be paid **\$19.41** per week extra.

**(e) First aid allowance**

An employee must be paid **\$17.16** per week extra if they are:

**Food, Beverage and Tobacco Manufacturing Award 2020**

- (i) the current holder of appropriate first aid qualifications such as a certificate from the St John Ambulance or similar body; and
  - (ii) appointed by their employer to perform first aid duty.
- (f) **Special ~~rates~~ allowances**

Subject to clause 20.2(f)(i), the following special ~~rates~~ allowances must be paid to an employee including a junior:

(i) **Special ~~rates~~ allowances are not subject to penalty additions**

The special ~~rates~~ allowances in clause 20.2(f) must be paid irrespective of the times at which the work is performed, and are not subject to any premium or penalty additions.

(ii) **Cold places**

An employee who works for more than one hour in places where the temperature is reduced by artificial means below 0°C must be paid **\$0.64** per hour extra. In addition, where the work continues for more than 2 hours, the employee is entitled to 20 minutes' rest after every 2 hours' work without loss of pay.

(iii) **Hot places**

- An employee who works for more than one hour in the shade in places where the temperature is raised by artificial means must be paid:

<b>Temperature</b>	<b>per hour extra</b>
	\$
Between 46°C and 54°C	0.66
In excess of 54°C	0.86

- In addition, where work continues for more than 2 hours in temperatures exceeding 54°C, the employee is entitled to 20 minutes' rest after every 2 hours work without loss of pay.
- The temperature is to be determined by the supervisor after consultation with the employee who claims the extra rate.

(iv) **Wet places**

- An employee working in any place where their clothing or boots become saturated by water, oil or another substance, must be paid **\$0.66** per hour extra. Any employee who becomes entitled to this allowance ~~extra rate~~ must be paid this allowance ~~rate~~ only for the part of the day or shift that they are required to work in wet clothing or boots.
- Clause 20.2(f)(iv) does not apply to an employee who is provided by the employer with suitable and effective protective clothing and/or footwear.

**Food, Beverage and Tobacco Manufacturing Award 2020**

**(v) Confined spaces**

An employee working in a confined space must be paid **\$0.86** per hour extra.

**(vi) Dirty or dusty work**

An employee who performs work of an unusually dirty, dusty or offensive nature must be paid **\$0.66** per hour extra.

**(vii) Fumigation gas**

An employee using methyl bromide gas in fumigation work must be paid **\$8.67** per day extra for any day on which the employee is required to use this gas.

**20.3 Expense-related allowances**

**(a) Meal allowance**

An employee must be paid a meal allowance of **\$14.70** on each occasion the employee is entitled to a rest break in accordance with clause 23.9, except in the following circumstances:

- (i)** if the employee is a day worker and was notified no later than the previous day that they would be required to work such overtime; or
- (ii)** if the employee is a shiftworker and was notified no later than the previous day or previous rostered shift that they would be required to work such overtime; or
- (iii)** if the employee lives in the same locality as the enterprise and could reasonably return home for meals; or
- (iv)** if the employee is provided with an adequate meal by the employer.

- (b)** If an employee has provided a meal or meals on the basis that they have been given notice to work overtime and the employee is not required to work overtime or is required to work less than the amount advised, they must be paid the prescribed meal allowance for the meal or meals which they have provided but which are surplus.

**(c) Vehicle allowance**

An employee who reaches agreement with their employer to use their own motor vehicle on the employer's business, must be paid **\$0.78** per kilometre travelled.

**(d) Damage to clothing, spectacles and hearing aids**

Where an employee suffers any damage to, or soiling of, clothing or other personal equipment, including spectacles and hearing aids, as a result of

- (i)** performing any duty required by the employer; and
- (ii)** negligence of the employer;

then the employer is liable for the replacement, repair or cleaning of any such clothing or personal equipment.

**(e) Special clothing and equipment allowance**

Where an employee is required to wear special clothing and equipment, the employer must reimburse the employee for the cost of purchasing and laundering such special clothing and equipment unless the clothing and equipment is paid for and/or laundered by the employer.

**(f) Transfers, travelling and working away from usual place of work**

**(i) Excess travelling and fares**

An employee required to start and/or finish work at a job away from the employer's usual workplace must be paid:

- travelling time for all time reasonably spent by the employee in reaching and/or returning from the job which is in excess of the time normally spent by the employee in travelling between the employee's usual residence and the employee's usual workplace; and
- any fares reasonably incurred by the employee which are in excess of those normally incurred in travelling between the employee's residence and the employee's usual workplace,
- or if the employee used their own means of transport, any fares which would have been incurred by the employee had the employee not used their own means of transport, except where the employee has an arrangement with their employer for a regular allowance.

**(ii) Distant work**

- An employee required to remain temporarily away from the employee's usual residence because the employee is working temporarily in a locality away from the employee's usual workplace must be paid travelling time for necessary travel between the locality and the employee's usual workplace and expenses.
- After each 4 week period on distant work an employee is entitled to be paid for a return fare reasonably incurred for personal travel between the locality and the employee's usual residence, unless such distant work is inherent in the normal work of the employee.

**(iii) Transfer involving change of residence**

An employee required to transfer permanently from the employee's usual workplace to another locality must be paid travelling time for necessary travel between the employee's usual workplace and the new locality and expenses for a period not exceeding 3 months or, where the employee is in the process of buying a residence in the new locality, for a period not exceeding 6 months. Payment for travel time and expenses ceases after the employee has taken up permanent residence in the new locality.

**(iv) Travelling time payment**

The rate of pay for travelling time is:

- the ordinary hourly rate on Monday to Saturday, and
- **150%** of the ordinary hourly rate on Sundays and public holidays.

The maximum travelling time to be paid for is 12 hours out of every 24 hours or, when a sleeping berth is provided by the employer for all-night travel, 8 hours out of every 24 hours.

**(v) Expenses** for the purposes of clause 20.3(f) means:

- all fares reasonably incurred;
- reasonable expenses incurred while travelling including **\$14.70** for each meal taken; and
- a reasonable allowance to cover the cost incurred for board and lodging.

**(g) Training costs**

- (i)** Any costs associated with standard fees for prescribed courses and prescribed textbooks (excluding those textbooks which are available in the employer's technical library) incurred by an employee in connection with training agreed to by the employer must be reimbursed by the employer on the production of evidence of such expenditure by the employee, provided that reimbursement may be on an annual basis subject to the presentation of reports of satisfactory progress.
- (ii)** Travel costs incurred by an employee undertaking training agreed to by the employer, which exceed those normally incurred in travelling to and from work, must be reimbursed by the employer.
- (iii)** Clause 20.3(g) does not apply to costs associated with training that are in connection with an apprentice's training contract. Such costs are subject to clause 11—Apprentices and not clause 20.3(g).

## **21. Extra rates not cumulative**

Administrative changes to clause 21 made by Modern Awards team

The extra rates in this award, except rates prescribed in clause 20.2(f)—Special **allowances** and rates for work on public holidays, are not cumulative so as to exceed the maximum of **double 200% of** the ordinary hourly rate.

## **22. Superannuation**

### **22.1 Superannuation legislation**

- (a)** Superannuation legislation, including the *Superannuation Guarantee (Administration) Act 1992* (Cth), the *Superannuation Guarantee Charge Act*

1992 (Cth), the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Superannuation (Resolution of Complaints) Act 1993* (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, any superannuation fund nominated in the award covering the employee applies.

- (b) The rights and obligations in these clauses supplement those in superannuation legislation.

## **22.2 Employer contributions**

An employer must make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the employer being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

## **22.3 Voluntary employee contributions**

- (a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 22.2.
- (b) An employee may adjust the amount the employee has authorised their employer to pay from the wages of the employee from the first of the month following the giving of three months' written notice to their employer.
- (c) The employer must pay the amount authorised under clauses 22.3(a) or 22.3(b) no later than 28 days after the end of the month in which the deduction authorised under clauses 22.3(a) or 22.3(b) was made.

## **22.4 Superannuation fund**

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 22.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 22.2 and pay the amount authorised under clauses 22.3(a) or 22.3(b) to one of the following superannuation funds or its successor:

- (a) AustSafe Super; or
- (b) AustralianSuper; or
- (c) CareSuper; or
- (d) HOSTPLUS; or
- (e) LUCRF Super; or
- (f) Statewide Superannuation Trust; or

- (g) Sunsuper; or
- (h) Tasplan; or
- (i) any superannuation fund to which the employer was making superannuation contributions for the benefit of its employees before 12 September 2008, provided the superannuation fund is an eligible choice fund and is a fund that offers a MySuper product or is an exempt public sector superannuation scheme; or
- (j) a superannuation fund or scheme which the employee is a defined benefit member of.

## 22.5 Absence from work

Subject to the governing rules of the relevant superannuation fund, the employer must also make the superannuation contributions provided for in clause 22.2 and pay the amount authorised under clauses 22.3(a) or 22.3(b):

### (a) Paid leave

While the employee is on any paid leave.

### (b) Work related injury or illness

For the period of absence from work (subject to a maximum of 52 weeks in total) of the employee due to work related injury or work related illness provided that:

- (i) the employee is receiving workers compensation payments or is receiving regular payments directly from the employer in accordance with statutory requirements; and
- (ii) the employee remains employed by the employer.

## Part 5—Overtime and Shiftwork Rates

### 23. Overtime

Administrative changes to clause 23.7 made by Modern Awards team

#### 23.1 Definition of overtime

- (a) Overtime work is any work performed outside the ordinary hours on any day or shift as defined by clauses 12.2, 12.3 and 12.4.
- (b) For the purposes of clause 23, **ordinary hours** means the hours worked in an enterprise, fixed in accordance with clause 12—Ordinary hours of work.
- (c) Overtime work for a part-time employee is any work performed in excess of the hours agreed under clauses 9.3 and 9.4.

- (d) The hourly rate, when computing overtime, is determined by dividing the appropriate weekly wage by 38, even in cases when an employee works more than 38 ordinary hours in a week.
- (e) In computing overtime each day's work stands alone.

**23.2 Payment for overtime—other than continuous shiftworkers**

- (a) Employees will be paid the following rates for overtime worked (except as otherwise provided in clauses 23.2(b), 23.5, 23.6 and 23.7):
  - (i) **150%** of the ordinary hourly rate for the first 3 hours; and
  - (ii) **200%** of the ordinary hourly rate thereafter.
- (b) **Unrelieved shiftwork on rostered day off**

When not less than 7.6 hours notice has been given to the employer by a relief shiftworker that the relief shiftworker will be absent from work and the shiftworker whom that person should relieve is not relieved and is required to continue work on their rostered day off, the unrelieved shiftworker must be paid at the rate of **200%** of the ordinary hourly rate.

**23.3 Payment for overtime—continuous shiftworkers**

A continuous shiftworker working overtime will be paid **200%** of the ordinary hourly rate.

**23.4 Saturday work—day worker**

A day worker required to work overtime on a Saturday must be paid **150%** of the ordinary hourly rate for the first 3 hours and **200%** of the ordinary hourly rate thereafter with a minimum payment of 4 hours, except where the overtime is continuous with overtime commenced on the previous day.

**23.5 Sunday work**

An employee required to work overtime on a Sunday must be paid **200%** of the ordinary hourly rate until the employee is relieved from duty with a minimum payment of 3 hours.

**23.6 Public holiday work**

- (a) A day worker required to work overtime on a public holiday must be paid **250%** of the ordinary hourly rate until the employee is relieved from duty with a minimum payment of 3 hours.
- (b) A continuous shiftworker required to work overtime on a public holiday must be paid **200%** of the ordinary hourly rate with a minimum payment of 3 hours.
- (c) A non-continuous shiftworker required to work overtime on a public holiday must be paid **250%** of the ordinary hourly rate until the employee is relieved from duty with a minimum payment of 3 hours.

**23.7 Time off instead of payment for overtime**

- (a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.
- (b) Any amount of overtime that has been worked by an employee in a particular pay period and that is to be taken as time off instead of the employee being paid for it must be the subject of a separate agreement under clause 23.7.
- (c) An agreement must state each of the following:
  - (i) the number of overtime hours to which it applies and when those hours were worked;
  - (ii) that the employer and employee agree that the employee may take time off instead of being paid for the overtime;
  - (iii) that, if the employee requests at any time, the employer must pay the employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;
  - (iv) that any payment mentioned in clause 23.7(c)(iii) must be made in the next pay period following the request.

NOTE: An example of the type of agreement required by clause 23.7 is set out at ~~—Schedule A—Classification—Structure and Definitions~~ Schedule G—Agreement for Time Off Instead of Payment for Overtime. There is no requirement to use the form of agreement set out at ~~—Schedule A—Classification—Structure and Definitions~~ Schedule G—Agreement for Time Off Instead of Payment for Overtime. An agreement under clause 23.7 can also be made by an exchange of emails between the employee and employer, or by other electronic means.

- (d) The period of time off that an employee is entitled to take is the same as the number of overtime hours worked.

EXAMPLE: By making an agreement under clause 23.7 an employee who worked 2 overtime hours is entitled to 2 hours' time off.

- (e) Time off must be taken:
  - (i) within the period of 6 months after the overtime is worked; and
  - (ii) at a time or times within that period of 6 months agreed by the employee and employer.
- (f) If the employee requests at any time, to be paid for overtime covered by an agreement under clause 23.7 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- (g) If time off for overtime that has been worked is not taken within the period of 6 months mentioned in clause 23.7(e), the employer must pay the employee for

the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.

- (h) The employer must keep a copy of any agreement under clause 23.7 as an employee record.
- (i) An employer must not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.
- (j) An employee may, under section 65 of the [Act](#), request to take time off, at a time or times specified in the request or to be subsequently agreed by the employer and the employee, instead of being paid for overtime worked by the employee. If the employer agrees to the request then clause 23.7 will apply, including the requirement for separate written agreements under clause 23.7(b) for overtime that has been worked.

NOTE: If an employee makes a request under section 65 of the [Act](#) for a change in working arrangements, the employer may only refuse that request on reasonable business grounds (see section 65(5) of the [Act](#)).

- (k) If, on the termination of the employee's employment, time off for overtime worked by the employee to which clause 23.7 applies has not been taken, the employer must pay the employee for the overtime at the overtime rate applicable to the overtime when worked.

NOTE: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 23.7.

### **23.8 One in, all in does not apply**

The assignment of overtime by an employer to an employee is to be based on specific work requirements. The practice of one in, all in overtime must not apply.

### **23.9 Rest break**

- (a) An employee working overtime must be allowed a rest break of 20 minutes without deduction of pay after each 4 hours of overtime worked if the employee is to continue work after the rest break.
- (b) Where a day worker is required to work overtime on a Saturday, Sunday or public holiday or on a rostered day off, the first rest break must be paid at the employee's ordinary hourly rate.
- (c) Where overtime is to be worked immediately after the completion of ordinary hours on a day or shift and the period of overtime is to be more than one and a half hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at the employee's ordinary hourly rate.
- (d) An employer and employee may agree to any variation of clause 23.9 to meet the circumstances of the work in hand provided that the employer is not required to make any payment in excess of or less than what would otherwise be required under clause 23.9.

- (e) An employee entitled to a rest break in clause 23.9 may be entitled to a meal allowance in accordance with clause 20.3(a).

### **23.10 Rest period after overtime**

- (a) When overtime work is necessary it must, wherever reasonably practicable, be arranged so that an employee has at least 10 consecutive hours off duty between the work of successive working days.
- (b) An employee, other than a casual employee, who works so much overtime between the end of work on one day and the start of work on the next day that the employee has not had at least 10 consecutive hours off duty between those times must, subject to the other provisions of clause 23.10, be released after completion of the overtime until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.
- (c) If on the instructions of the employer an employee resumes or continues work without having had 10 consecutive hours off duty the employee must be paid at **200%** of the ordinary hourly rate until the employee is released from duty. The employee is then entitled to be absent until the employee has had 10 consecutive hours off duty without loss of pay for ordinary hours occurring during the absence.
- (d) By agreement between the employer and individual employee, the 10 hour break provided for in clause 23.10 may be reduced to a period of no less than 8 hours.
- (e) The provisions of clause 23.10 will apply in the case of a shiftworker as if 8 hours were substituted for 10 hours when overtime is worked:
  - (i) for the purpose of changing shift rosters; or
  - (ii) where a shiftworker does not report for duty and a day worker or a shiftworker is required to replace the shiftworker; or
  - (iii) where a shift is worked by arrangement between the employees themselves.

### **23.11 Call back**

An employee recalled to work overtime after leaving the employer's enterprise, whether notified before or after leaving the enterprise, must be paid for a minimum of 4 hours work at the rate of **150%** of the ordinary hourly rate for the first 3 hours and **200%** of the ordinary hourly rate thereafter or, if a continuous shiftworker, at the rate of **200%** of the ordinary hourly rate for the full period provided that:

- (a) Where an employee is required to regularly hold themselves in readiness for a call back they must be paid for a minimum of 3 hours' work at the appropriate overtime rate, subject to clause 23.12 which deals with the conditions for standing by.
- (b) If the employee is recalled on more than one occasion between the termination of their ordinary hours on one day and the commencement of their ordinary hours on the next working day they are entitled to the 3 or 4 hour minimum overtime payment provided for in clause 23.11 for each call back. However, in such

circumstances, it is only the time which is actually worked during the previous call or calls which is to be taken into account when determining the overtime rate for subsequent calls.

- (c) Except in the case of unforeseen circumstances arising, an employee must not be required to work the full 3 or 4 hours as the case may be if the job they were recalled to perform is completed within a shorter period.
- (d) Clause 23.11 does not apply in cases where it is customary for an employee to return to the enterprise to perform a specific job outside the employee's ordinary hours or where the overtime is continuous, subject to a meal break, with the commencement or completion of ordinary hours.
- (e) Overtime worked in the circumstances specified in clause 23.11 is not to be regarded as overtime for the purposes of clause 23.10 concerning rest periods after overtime, when the actual time worked is less than 3 hours on the call back or on each call back.

### **23.12 Standing by**

Subject to any custom prevailing at an enterprise, where an employee is required regularly to hold themselves in readiness to work after ordinary hours, the employee must be paid standing by time at the employee's ordinary hourly rate for the time they are standing by.

### **23.13 Transport of employees**

When an employee, after having worked overtime or a shift for which they have not been regularly rostered, finishes work at a time when reasonable means of transport are not available, the employer must provide the employee with suitable transport home, or pay the employee at the overtime rate for the time reasonably occupied in reaching home.

## **24. Special provisions for shiftworkers**

Administrative changes to clauses 24.4 and 24.5(f) made by Modern Awards team

### **24.1 For the purposes of this award:**

- (a) **afternoon shift** means any shift finishing after 6.00 pm and at or before midnight
- (b) **early morning shift** means any shift starting between 3.00 am (2.00 am for baking production employees) and 6.00 am (or 5.00 am if the span of ordinary hours is varied pursuant to clause 12.2(d))
- (c) **night shift** means any shift finishing after midnight and at or before 8.00 am or any shift starting between midnight and 3.00 am (2.00 am for baking production employees)
- (d) **non-continuous afternoon or night shift** means an afternoon or night shift that does not continue:

## Food, Beverage and Tobacco Manufacturing Award 2020

- (i) for at least 5 successive afternoon or night shifts or 6 successive afternoon or night shifts in a 6 day workshop (where no more than 8 ordinary hours are worked on each shift); or
  - (ii) for at least 38 ordinary hours (where more than 8 ordinary hours are worked on each shift and the shift arrangement is in accordance with clauses 12.3 or 12.4)
- (e) **permanent night shift** means a period of engagement on shiftwork where an employee:
- (i) works night shift only;
  - (ii) remains on night shift for a longer period than 4 consecutive weeks; or
  - (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each shift cycle
- (f) **rostered shift** means any shift of which the employee concerned has had at least 48 hours' notice

**24.2** By agreement between the employer and the majority of employees concerned or in appropriate cases an individual employee, the span of hours over which shifts may be worked may be altered by up to one hour at either end of the span.

### **24.3 Rates for shiftworkers**

- (a) An employee who works on early morning shift must be paid **112.5%** of the ordinary hourly rate for that shift.
- (b) An employee who works on afternoon or night shift must be paid **115%** of the ordinary hourly rate for that shift.
- (c) An employee who works on a non-continuous afternoon or night shift must be paid **150%** of the ordinary hourly rate for the first 3 hours and **200%** of the ordinary hourly rate after 3 hours.
- (d) An employee who works on permanent night shift must be paid **130%** of the ordinary hourly rate for all time worked during ordinary working hours on an engagement, period or cycle on permanent night shifts.
- (e) **Work on shifts other than rostered shifts**

Where an employee works on a shift other than a rostered shift, the employee must:

- (i) if employed on continuous work, be paid at **200%** of the ordinary hourly rate; or
- (ii) if employed on other shiftwork, be paid at **150%** of the ordinary hourly rate for the first 3 hours and **200%** of the ordinary hourly rate thereafter.

- (f) Clause 24.3(e) does not apply when the time is worked:
  - (i) by arrangement between the employees themselves;
  - (ii) for the purposes of effecting the customary rotation of shifts; or
  - (iii) on a shift to which the employee is transferred on short notice as an alternative to standing the employee off in circumstances which would entitle the employer to deduct payment in accordance with [Part 3–5](#) of the [Act](#).

#### 24.4 Rate for working on Saturday shifts

A shiftworker must be paid **150%** of the ordinary hourly rate for work performed between midnight on Friday and midnight on Saturday. The ~~extra~~ rate is in substitution for and not cumulative upon the shift rates prescribed in clause 24.3.

#### 24.5 Rate for working on Sunday and public holiday shifts

- (a) A continuous shiftworker must be paid **200%** of the ordinary hourly rate for work on a rostered shift the major portion of which is performed on a Sunday or public holiday.
- (b) A shiftworker, on other than continuous shiftwork, must be paid **200%** of the ordinary hourly rate for all time worked on a Sunday and **250%** of the ordinary hourly rate on a public holiday.
- (c) Where shifts start between 11.00 pm and midnight on a Sunday or public holiday, the time so worked before midnight does not entitle the employee to the Sunday or public holiday rate for the shift.
- (d) The time worked by an employee on a shift starting before midnight on the day preceding a Sunday or public holiday and extending into the Sunday or public holiday must be regarded as time worked on the Sunday or public holiday.
- (e) Where shifts fall partly on a holiday, the shift which has the major portion falling on the public holiday must be regarded as the holiday shift. By agreement between the employer and the majority of employees concerned, the shift which has the minor portion falling on the public holiday may be regarded as the holiday shift instead.
- (f) The ~~extra~~ rates in clause 24.5 are in substitution for and not cumulative upon the shift rates prescribed in clause 24.3.

## Part 6—Leave and Public Holidays

### 25. Annual leave

Clause 25.11 updated to incorporate changes resulting from [\[2020\] FWCFB 2124](#) at [101]

- 25.1 Annual leave is provided for in the [NES](#). Annual leave does not apply to a casual employee.

## 25.2 Conversion to hourly entitlement

An employer may reach agreement with the majority of employees concerned to convert the annual leave entitlement in section 87 of the [Act](#) to an hourly entitlement for administrative ease (i.e. 152 hours for a full-time employee entitled to 4 weeks of annual leave and 190 hours for a shiftworker as defined in clause 25.3).

## 25.3 Definition of shiftworker

For the purpose of the additional week of annual leave provided for in section 87(1)(b) of the [Act](#), a shiftworker is a 7 day shiftworker who is regularly rostered to work on Sundays and public holidays.

## 25.4 Payment for period of annual leave

- (a) Instead of the base rate of pay as referred to in section 90(1) of the [Act](#), an employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period.
- (b) Subject to clause 25.4(c), the wages to be paid must be worked out on the basis of what the employee would have been paid under this award for working ordinary hours during the period of annual leave, including allowances, loadings and penalties paid for all purposes of the award, first aid allowance and any other wages payable under the employee's contract of employment including any over-award payment.
- (c) Subject to clause 25.6, the employee is not entitled to payments in respect of overtime, shift rates, weekend penalty rates, special ~~rates-allowances~~ or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.

## 25.5 Electronic funds transfer (EFT) payment of annual leave

Despite anything else in clause 25, an employee paid by electronic funds transfer (EFT) may be paid in accordance with their usual pay cycle while on paid annual leave.

## 25.6 Annual leave loading

During a period of annual leave an employee must also be paid a loading calculated on the wages prescribed in clause 25.4. The loading must be as follows:

### (a) Day work

An employee who would have worked on day work only had they not been on leave must be paid a loading equal to **17.5%** of the wages prescribed in clause 25.4 or the relevant weekend penalty rates, whichever is the greater but not both.

### (b) Shiftwork

An employee who would have worked on shiftwork had they not been on leave must be paid a loading equal to **17.5%** of the wages prescribed in clause 25.4 or

the shift loading including relevant weekend penalty rates, whichever is the greater but not both.

**25.7 Excessive leave accruals: general provision**

NOTE: Clauses 25.7 to 25.9 contain provisions, additional to the [NES](#), about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the [Act](#).

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 25.3).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 25.8 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 25.9 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

**25.8 Excessive leave accruals: direction by employer that leave be taken**

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 25.7(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under clause 25.8(a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid annual leave arrangements (whether made under clause 25.7, 25.8 or 25.9 or otherwise agreed by the employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under clause 25.8(a) that is in effect.
- (d) An employee to whom a direction has been given under clause 25.8(a) may request to take a period of paid annual leave as if the direction had not been given.

NOTE 1: Paid annual leave arising from a request mentioned in clause 25.8(d) may result in the direction ceasing to have effect. See clause 25.8(b)(i).

NOTE 2: Under section 88(2) of the [Act](#), the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

**25.9 Excessive leave accruals: request by employee for leave**

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 25.7(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under clause 25.9(a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 25.8(a) that, when any other paid annual leave arrangements (whether made under clause 25.7, 25.8 or 25.9 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under clause 25.9(a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements (whether made under clause 25.7, 25.8 or 25.9 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under clause 25.9(a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 25.3) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under clause 25.9(a).

**25.10 Annual leave in advance**

- (a) An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b) An agreement must:

- (i) state the amount of leave to be taken in advance and the date on which leave is to commence; and
- (ii) be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.

NOTE: An example of the type of agreement required by clause 25.10 is set out at Schedule H—Agreement to Take Annual Leave in Advance. There is no requirement to use the form of agreement set out at Schedule H—Agreement to Take Annual Leave in Advance.

- (c) The employer must keep a copy of any agreement under clause 25.10 as an employee record.
- (d) If, on the termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken in accordance with an agreement under clause 25.10, the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.

#### **25.11 Annual close-down**

Notwithstanding section 88 of the [Act](#) and clause 25.7~~25.5~~, an employer may close down an enterprise or part of it for the purpose of allowing annual leave to all or the majority of the employees in the enterprise or part concerned, provided that:

- (a) the employer gives not less than 4 weeks' notice of intention to do so; and
- (b) an employee who has accrued sufficient leave to cover the period of the close-down, is allowed leave and also paid for that leave at the appropriate wage in accordance with clauses 25.4 and 25.6; and
- (c) an employee who has not accrued sufficient leave to cover part or all of the close-down, is allowed paid leave for the period for which they have accrued sufficient leave and given unpaid leave for the remainder of the close-down; and
- (d) any leave taken by an employee as a result of a close-down pursuant to clause 25.11 also counts as service by the employee with their employer; and
- (e) the employer may only close down the enterprise or part of it pursuant to clause 25.11 for one or 2 separate periods in a year; and
- (f) if the employer closes down the enterprise or part of it pursuant to clause 25.11 in 2 separate periods, one of the periods must be for a period of at least 14 consecutive days including non-working days; and
- (g) the employer and the majority of employees concerned may agree to the enterprise or part of it being closed down pursuant to clause 25.11 for 3 separate periods in a year provided that one of the periods is a period of at least 14 days including non-working days; and

- (h) the employer may close down the enterprise or part of it for a period of at least 14 days including non-working days and allow the balance of any annual leave to be taken in one continuous period in accordance with a roster.

**25.12 Proportionate leave on termination**

On termination of employment, an employee must be paid for annual leave accrued that has not been taken at the appropriate wage calculated in accordance with clause 25.4.

**25.13 Cashing out of annual leave**

- (a) Paid annual leave must not be cashed out except in accordance with an agreement under clause 25.13.
- (b) Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 25.13.
- (c) An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d) An agreement under clause 25.13 must state:
  - (i) the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii) the date on which the payment is to be made.
- (e) An agreement under clause 25.13 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f) The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g) An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h) The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i) The employer must keep a copy of any agreement under clause 25.13 as an employee record.

NOTE 1: Under section 344 of the [Act](#), an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 25.13.

NOTE 2: Under section 345(1) of the [Act](#), a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 25.13.

NOTE 3: An example of the type of agreement required by clause 25.13 is set out at Schedule I—Agreement to Cash Out Annual Leave. There is no requirement to use the form of agreement set out at Schedule I—Agreement to Cash Out Annual Leave.

## **26. Personal/carer's leave and compassionate leave**

**26.1** Personal/carer's leave and compassionate leave are provided for in the [NES](#).

**26.2** If an employee is terminated by their employer and is re-engaged by the same employer within a period of 6 months, the employee's unclaimed balance of paid personal/carer's leave continues from the date of re-engagement.

## **27. Parental leave and related entitlements**

Parental leave and related entitlements are provided for in the [NES](#).

## **28. Community service leave**

Community service leave is provided for in the [NES](#).

## **29. Unpaid family and domestic violence leave**

Unpaid family and domestic violence leave is provided for in the [NES](#).

NOTE 1: Information concerning an employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the employee. Employers should consult with such employees regarding the handling of this information.

NOTE 2: Depending upon the circumstances, evidence that would satisfy a reasonable person of the employee's need to take family and domestic violence leave may include a document issued by the police service, a court or family violence support service, or a statutory declaration.

## **30. Public holidays**

Administrative changes to clause 30.6 made by Modern Awards team

**30.1** Public holiday entitlements are provided for in the [NES](#).

**30.2** Where an employee works on a public holiday they will be paid in accordance with clauses 12.2(g), 23.6 and 24.5.

**30.3** Clause 9.9 applies in relation to part-time employees and public holidays.

### **30.4 Substitution of certain public holidays by agreement at the enterprise**

(a) An employer and employee may agree to substitute another day for a day that would otherwise be a public holiday under the [NES](#).

(b) An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the [NES](#).

### **30.5 Rostered day off falling on public holiday**

(a) Except as provided for in clauses 30.5(b) and 30.5(c) and where the rostered day off falls on a Saturday or a Sunday, where a full-time employee's ordinary hours

of work are structured to include a day off and such day off falls on a public holiday, the employee is entitled, at the discretion of the employer, to either:

- (i) 7.6 hours of pay at the employee's ordinary hourly rate; or
  - (ii) 7.6 hours of extra annual leave; or
  - (iii) a substitute day off on an alternative week day.
- (b) Where an employee has credited time accumulated pursuant to clause 19.6, then such credited time should not be taken as a day off on a public holiday.
- (c) If an employee is rostered to take credited time accumulated pursuant to clause 19.6 as a day off on a week day and such week day is prescribed as a public holiday after the employee was given notice of the day off, then the employer must allow the employee to take the time off on an alternative week day.
- (d) Clauses 30.5(b) and 30.5(c) do not apply in relation to days off which are specified in an employee's regular roster or pattern of ordinary hours as clause 30.5(a) applies to such days off.

### **30.6 Part-day ~~P~~ublic ~~H~~olidays**

For provisions relating to part-day public holidays see Schedule J—Part-day Public Holidays

## **Part 7—Consultation and Dispute Resolution**

### **31. Consultation about major workplace change**

**31.1** If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

- (a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and
- (b) discuss with affected employees and their representatives (if any):
  - (i) the introduction of the changes; and
  - (ii) their likely effect on employees; and
  - (iii) measures to avoid or reduce the adverse effects of the changes on employees; and
- (c) commence discussions as soon as practicable after a definite decision has been made.

**31.2** For the purposes of the discussion under clause 31.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

- (a) their nature; and
- (b) their expected effect on employees; and
- (c) any other matters likely to affect employees.

**31.3** Clause 31.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

**31.4** The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 31.1(b).

**31.5** In clause 31 **significant effects**, on employees, includes any of the following:

- (a) termination of employment; or
- (b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or
- (c) loss of, or reduction in, job or promotion opportunities; or
- (d) loss of, or reduction in, job tenure; or
- (e) alteration of hours of work; or
- (f) the need for employees to be retrained or transferred to other work or locations; or
- (g) job restructuring.

**31.6** Where this award makes provision for alteration of any of the matters defined at clause 31.5, such alteration is taken not to have significant effect.

## **32. Consultation about changes to rosters or hours of work**

**32.1** Clause 32 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

**32.2** The employer must consult with any employees affected by the proposed change and their representatives (if any).

**32.3** For the purpose of the consultation, the employer must:

- (a) provide to the employees and representatives mentioned in clause 32.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and
- (b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

**32.4** The employer must consider any views given under clause 32.3(b).

**32.5** Clause 32 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

### **33. Dispute resolution**

**33.1** Clause 33 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the [NES](#).

**33.2** The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.

**33.3** If the dispute is not resolved through discussion as mentioned in clause 33.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

**33.4** If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 33.2 and 33.3, a party to the dispute may refer it to the Fair Work Commission.

**33.5** The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation and consent arbitration.

**33.6** If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the [Act](#) to use and that it considers appropriate for resolving the dispute.

**33.7** A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 33.

**33.8** While procedures are being followed under clause 33 in relation to a dispute:

- (a) work must continue in accordance with this award and the [Act](#); and
- (b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

**33.9** Clause 33.8 is subject to any applicable work health and safety legislation.

## **Part 8—Termination of Employment and Redundancy**

### **34. Termination of employment**

NOTE: The [NES](#) sets out requirements for notice of termination by an employer. See sections 117 and 123 of the [Act](#).

#### **34.1 Notice of termination by an employee**

- (a) Clause 34.1 applies to all employees except those identified in sections 123(1) and 123(3) of the [Act](#).

- (b) An employee must give the employer notice of termination in accordance with **Table 1—Period of notice** of at least the period specified in column 2 according to the period of continuous service of the employee specified in column 1.

**Table 1—Period of notice**

<b>Column 1</b>	<b>Column 2</b>
<b>Employee’s period of continuous service with the employer at the end of the day the notice is given</b>	<b>Period of notice</b>
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

NOTE: The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee.

- (c) In clause 34.1(b) **continuous service** has the same meaning as in section 117 of the [Act](#).
- (d) If an employee who is at least 18 years old does not give the period of notice required under clause 34.1(b), then the employer may deduct from wages due to the employee under this award an amount that is no more than one week’s wages for the employee.
- (e) If the employer has agreed to a shorter period of notice than that required under clause 34.1(b), then no deduction can be made under clause 34.1(d).
- (f) Any deduction made under clause 34.1(d) must not be unreasonable in the circumstances.

### **34.2 Job search entitlement**

- (a) Where an employer has given notice of termination to an employee, the employee must be allowed time off without loss of pay of up to one day for the purpose of seeking other employment.
- (b) The time off under clause 34.2 is to be taken at times that are convenient to the employee after consultation with the employer.

## **35. Redundancy**

NOTE: Redundancy pay is provided for in the [NES](#). See sections 119 to 123 of the [Act](#).

### **35.1 Transfer to lower paid duties on redundancy**

- (a) Clause 35.1 applies if, because of redundancy, an employee is transferred to new duties to which a lower ordinary rate of pay applies.
- (b) The employer may:

## Food, Beverage and Tobacco Manufacturing Award 2020

- (i) give the employee notice of the transfer of at least the same length as the employee would be entitled to under section 117 of the [Act](#) as if it were a notice of termination given by the employer; or
  - (ii) transfer the employee to the new duties without giving notice of transfer or before the expiry of a notice of transfer, provided that the employer pays the employee as set out in clause 35.1(c).
- (c) If the employer acts as mentioned in clause 35.1(b)(ii), the employee is entitled to a payment of an amount equal to the difference between the ordinary rate of pay of the employee (inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) for the hours of work the employee would have worked in the first role, and the ordinary rate of pay (also inclusive of all-purpose allowances, shift rates and penalty rates applicable to ordinary hours) of the employee in the second role for the period for which notice was not given.

### 35.2 Employee leaving during redundancy notice period

- (a) An employee given notice of termination in circumstances of redundancy may terminate their employment during the minimum period of notice prescribed by section 117(3) of the [Act](#).
- (b) The employee is entitled to receive the benefits and payments they would have received under clause 35 or under sections 119 to 123 of the [Act](#) had they remained in employment until the expiry of the notice.
- (c) However, the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

### 35.3 Job search entitlement

- (a) Where an employer has given notice of termination to an employee in circumstances of redundancy, the employee must be allowed time off without loss of pay of up to one day each week of the minimum period of notice prescribed by section 117(3) of the [Act](#) for the purpose of seeking other employment.
- (b) If an employee is allowed time off without loss of pay of more than one day under clause 35.3(a), the employee must, at the request of the employer, produce proof of attendance at an interview.
- (c) A statutory declaration is sufficient for the purpose of clause 35.3(b).
- (d) An employee who fails to produce proof when required under clause 35.3(b) is not entitled to be paid for the time off.
- (e) This entitlement applies instead of clause 34.2.

## Schedule A—Classification Structure and Definitions

Administrative change to A.1 made by Modern Awards team

**A.1** The classification structure and definitions set out in this ~~Schedule~~ schedule apply to employees covered by this award, except where otherwise specified.

### **A.2 Classification structure and definitions**

#### **A.2.1 Level 1 (78% relativity to the tradesperson)**

(a) An employee at Level 1 has less than 3 months' experience in the industry or enterprise and does not possess recognised enterprise or industrial or prior learning experience and/or skills sufficient for appointment to Level 2 or above. Provided that the length of service required to advance to Level 2 for a seasonal employee is 4 weeks and for a casual employee is 152 hours.

#### **(b) Competencies**

An employee at Level 1 performs general duties essentially of a manual nature, and:

- (i) exercises minimal judgment;
- (ii) works under direct supervision; and
- (iii) is undertaking up to 38 hours' induction training which may include information on the enterprise, conditions of employment, introduction to supervisors and fellow workers, training and career path opportunities, plant layout, work and documentation procedures, work health and safety, equal employment opportunity and quality control/assurance.

#### **A.2.2 Level 2 (82% relativity to the tradesperson)**

(a) An employee at Level 2 is an employee who has either:

- (i) completed a structured induction program over 3 months or for such shorter period as is necessary to reach the required level of competency for appointment to Level 2; or
- (ii) has recognised enterprise or industrial experience, training or prior learning experience or skills to Level 2.

#### **(b) Competencies**

An employee at Level 2 performs a range of general duties essentially of a manual nature and to the level of the employee's competency, and:

- (i) exercises limited judgment;
- (ii) works under direct supervision;
- (iii) is undertaking structured training to enable the employee to work at Level 3.

**A.2.3 Level 3 (87.4% relativity to the tradesperson)**

- (a) An employee at Level 3 is an employee who has either:
- (i) completed an Australian Qualifications Framework (AQF) Certificate 1 in Food Processing; or
  - (ii) has equivalent recognised enterprise or industrial experience, training or prior learning experience or skills to Level 3.

**(b) Competencies**

An employee at Level 3 performs a range of duties including specialised work, and:

- (i) may exercise judgment within defined procedures;
- (ii) works under general supervision;
- (iii) may undertake structured training to enable the employee to work at Level 4;
- (iv) is responsible for the quality of the employee's own work within the limits of Level 3;
- (v) assists in the provision of on-the-job training in conjunction with tradespersons and supervisor/trainers or an accredited training provider.

**A.2.4 Level 4 (92.4% relativity to the tradesperson)**

- (a) An employee at Level 4 is an employee who has either:
- (i) completed an AQF Certificate 2 in Food Processing; or
  - (ii) has equivalent recognised enterprise or industrial experience, training or prior learning experience or skills to Level 4.

**(b) Competencies**

An employee at Level 4 performs work above and beyond the competencies of a Level 3 employee, and:

- (i) exercises judgment;
- (ii) works under general supervision;
- (iii) may undertake structured training to enable the employee to work at Level 5 level;
- (iv) is responsible for assuring the quality of the employee's own work;
- (v) assists in the provision of on-the-job training in conjunction with tradespersons and supervisor/trainers or an accredited training provider.

**A.2.5 Level 5 (100% relativity to the tradesperson)**

- (a) An employee at Level 5 is an employee who has either:
- (i) completed an AQF Certificate 3 in Food Processing; or
  - (ii) has equivalent recognised enterprise or industrial experience, training or prior learning experience or skills to Level 5.

**(b) Competencies**

An employee at Level 5 performs work above and beyond the competencies of a Level 4 employee, and:

- (i) understands and applies quality control techniques;
- (ii) has good interpersonal and communication skills;
- (iii) is able to inspect products and/or materials for conformity with established operational standards;
- (iv) exercises judgment and decision making skills;
- (v) works under general supervision either individually or in a team environment;
- (vi) may undertake structured training to enable the employee to work at Level 6.

**A.2.6 Level 6 (105% relativity to the tradesperson)**

- (a) An employee at Level 6 is an employee who has completed the following training requirement above that for Level 5:

- (i) 2 competency units from the Associate Diploma of Food Technology (ADFT); or
- (ii) 6 competency units from the Advanced Certificate of Food Technology (ACFT); or
- (iii) 6 competency units above the requirement for Level 5; or
- (iv) equivalent.

**(b) Competencies**

An employee at Level 6 performs work above and beyond a Level 5 and to the level of the employee's training:

- (i) exercises skills attained through satisfactory completion of the training prescribed for Level 6;
- (ii) exercises discretion within the scope of Level 6;
- (iii) works under general supervision either generally or in a team environment;

**Food, Beverage and Tobacco Manufacturing Award 2020**

- (iv) understands and implements quality control techniques;
- (v) provides technical guidance and assistance as part of a work team;
- (vi) exercises skills relevant to the specific requirements of the enterprise at a level higher than a Level 5.

**A.3** The percentage wage relativities in clause A.2 reflect the percentages prescribed in 1990 in *Re Metal Industry Award 1984—Part I* (M039 [Print J2043](#)). The minimum wages in this award do not reflect these relativities because some wage increases since 1990 have been expressed in dollar amounts rather than percentages and as a result have reduced the relativities.

## Schedule B—Summary of Hourly Rates of Pay

### B.1 Full-time and part-time adult employees

**B.1.1 Ordinary hourly rate** means the hourly rate for the employee’s classification specified in clauses 14—Minimum rates and classifications and 15—Apprentice minimum rates, plus any allowances specified as being included in the employee’s ordinary hourly rate or payable for all purposes. Where an allowance is payable for all purposes in accordance with clause 20.2(a), this forms part of the employee’s ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.

**B.1.2** The rates in the tables below are based on the **minimum hourly rates** in accordance with clause 14.1. Consistent with clause B.1.1, all-purpose allowances need to be added to the rates in the table where they are applicable.

#### B.1.3 Full-time and part-time employees other than shiftworkers—ordinary and penalty rates

	Ordinary hours	Saturday	Sunday	Public holiday
	% of ordinary hourly rate <sup>1</sup>			
	100%	150%	200%	250%
	\$	\$	\$	\$
Level 1	19.49	29.24	38.98	48.73
Level 2	20.06	30.09	40.12	50.15
Level 3	20.82	31.23	41.64	52.05
Level 4	21.54	32.31	43.08	53.85
Level 5	22.70	34.05	45.40	56.75
Level 6	23.41	35.12	46.82	58.53

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

#### B.1.4 Full-time and part-time employees other than shiftworkers—overtime rates

	Monday to Saturday – first 3 hours	Monday to Saturday – after 3 hours	Sunday	Public holiday
	% of ordinary hourly rate <sup>1</sup>			
	150%	200%	200%	250%
	\$	\$	\$	\$
Level 1	29.24	38.98	38.98	48.73
Level 2	30.09	40.12	40.12	50.15
Level 3	31.23	41.64	41.64	52.05
Level 4	32.31	43.08	43.08	53.85

**Food, Beverage and Tobacco Manufacturing Award 2020**

	<b>Monday to Saturday – first 3 hours</b>	<b>Monday to Saturday – after 3 hours</b>	<b>Sunday</b>	<b>Public holiday</b>
	<b>% of ordinary hourly rate<sup>1</sup></b>			
	<b>150%</b>	<b>200%</b>	<b>200%</b>	<b>250%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 5	34.05	45.40	45.40	56.75
Level 6	35.12	46.82	46.82	58.53

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

**B.1.5 Full-time and part-time shiftworkers—ordinary and shiftwork rates**

	<b>All shiftworkers</b>						<b>Other than continuous shiftworkers</b>		<b>Continuous shiftworkers</b>
	<b>Early morning shift</b>	<b>Afternoon shift or night shift</b>	<b>Afternoon or night shift not continuing<sup>1</sup></b>		<b>Permanent night shift</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Public holiday</b>	<b>Sunday &amp; Public holiday</b>
			<b>First 3 hours</b>	<b>After 3 hours</b>					
	<b>% of ordinary hourly rate<sup>2</sup></b>								
	<b>112.5%</b>	<b>115%</b>	<b>150%</b>	<b>200%</b>	<b>130%</b>	<b>150%</b>	<b>200%</b>	<b>250%</b>	<b>200%</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
Level 1	21.93	22.41	29.24	38.98	25.34	29.24	38.98	48.73	38.98
Level 2	22.57	23.07	30.09	40.12	26.08	30.09	40.12	50.15	40.12
Level 3	23.42	23.94	31.23	41.64	27.07	31.23	41.64	52.05	41.64
Level 4	24.23	24.77	32.31	43.08	28.00	32.31	43.08	53.85	43.08
Level 5	25.54	26.11	34.05	45.40	29.51	34.05	45.40	56.75	45.40
Level 6	26.34	26.92	35.12	46.82	30.43	35.12	46.82	58.53	46.82

<sup>1</sup> Not continuing afternoon or night (see clause 24.1(d)).

<sup>2</sup> Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

**B.1.6 Full-time and part-time shiftworkers—overtime rates**

	Other than continuous shiftworkers		Continuous shiftworkers	Sunday	Other than continuous shiftworkers	Continuous shiftworkers
	Monday to Saturday				Public holiday	
	First 3 hours	After 3 hours	All overtime worked	All overtime worked	All overtime worked	All overtime worked
	% of ordinary hourly rate <sup>1</sup>					
	150%	200%	200%	200%	250%	200%
	\$	\$	\$	\$	\$	\$
Level 1	29.24	38.98	38.98	38.98	48.73	38.98
Level 2	30.09	40.12	40.12	40.12	50.15	40.12
Level 3	31.23	41.64	41.64	41.64	52.05	41.64
Level 4	32.31	43.08	43.08	43.08	53.85	43.08
Level 5	34.05	45.40	45.40	45.40	56.75	45.40
Level 6	35.12	46.82	46.82	46.82	58.53	46.82

<sup>1</sup> Rates in table are calculated based on the minimum hourly rate, see clauses B.1.1 and B.1.2.

**B.2 Casual adult employees**

**B.2.1 Casual ordinary hourly rate** means the hourly rate for a casual employee for the employee's classification prescribed by this award, inclusive of the casual loading which is payable for all purposes. Where an additional allowance is payable for all purposes in accordance with clause 20.2(a), this forms part of the employee's casual ordinary hourly rate and must be added to the casual ordinary hourly rate prior to calculating penalties and overtime.

**B.2.2 Casual employees other than shiftworkers—ordinary and penalty rates**

	Ordinary hours	Saturday	Sunday	Public holiday
	% of casual ordinary hourly rate <sup>1</sup>			
	100%	150%	200%	250%
	\$	\$	\$	\$
Level 1	24.36	36.54	48.72	60.90
Level 2	25.08	37.62	50.16	62.70
Level 3	26.03	39.05	52.06	65.08
Level 4	26.93	40.40	53.86	67.33
Level 5	28.38	42.57	56.76	70.95
Level 6	29.26	43.89	58.52	73.15

**Food, Beverage and Tobacco Manufacturing Award 2020**

<sup>1</sup> Rates in table include the casual loading payable to all employees for all purposes. Any all-purpose allowances applicable need to be added to these rates, see clause B.2.1.

**B.2.3 Casual shiftworkers—ordinary and shiftwork rates**

	All shiftworkers					Other than continuous shiftworkers		Continuous shiftworkers	
	Early morning shift	Afternoon shift or night shift	Afternoon or night shift not continuing <sup>1</sup>		Permanent night shift	Saturday	Sunday	Public holiday	Sunday & Public holiday
			First 3 hours	After 3 hours					
	% of casual ordinary hourly rate <sup>2</sup>								
	112.5%	115%	150%	200%	130%	150%	200%	250%	200%
	\$	\$	\$	\$	\$	\$	\$	\$	\$
Level 1	27.41	28.01	36.54	48.72	31.67	36.54	48.72	60.90	48.72
Level 2	28.22	28.84	37.62	50.16	32.60	37.62	50.16	62.70	50.16
Level 3	29.28	29.93	39.05	52.06	33.84	39.05	52.06	65.08	52.06
Level 4	30.30	30.97	40.40	53.86	35.01	40.40	53.86	67.33	53.86
Level 5	31.93	32.64	42.57	56.76	36.89	42.57	56.76	70.95	56.76
Level 6	32.92	33.65	43.89	58.52	38.04	43.89	58.52	73.15	58.52

<sup>1</sup> Not continuing afternoon or night (see clause 24.1(d)).

<sup>2</sup> Rates in table include the casual loading payable to all employees for all purposes. Any all-purpose allowances applicable need to be added to these rates, see clause B.2.1.

## Schedule C—Summary of Monetary Allowances

Administrative change to clause C.1.1 made by Modern Awards team

See clause 20—Allowances for full details of allowances payable under this award.

### C.1 Wage-related allowances:

**C.1.1** The wage-related allowances in this award are based on the [standard rate](#) as defined in [Clause 2—Definitions](#) as the minimum hourly rate prescribed for the Level 5 classification in clause 14.1(a) = **\$22.70**.

Allowance	Clause	% of standard rate	\$	Payable
Leading hand in charge of—3 to 10 employees <sup>1</sup>	20.2(b)	166.3	37.75	per week
Leading hand in charge of—11 to 20 employees <sup>1</sup>	20.2(b)	248.4	56.39	per week
Leading hand in charge of—more than 20 employees <sup>1</sup>	20.2(b)	316.2	71.78	per week
Heavy vehicle driving allowance—over 3 tonnes GVW and up to 4.5 tonnes GVW <sup>1</sup>	20.2(c)	0.6	0.14	per hour
Heavy vehicle driving allowance—over 4.5 tonnes GVW and up to 14.95 tonnes GVW <sup>1</sup>	20.2(c)	5.0	1.14	per hour
Heavy vehicle driving allowance—over 14.95 tonnes GVW <sup>1</sup>	20.2(c)	6.6	1.50	per hour
Heavy vehicle driving allowance—a semi-trailer <sup>1</sup>	20.2(c)	11.9	2.70	per hour
Boiler attendants allowance <sup>1</sup>	20.2(d)	85.5	19.41	per week
First aid allowance	20.2(e)	75.6	17.16	per week
Cold places allowance	20.2(f)(ii)	2.8	0.64	per hour
Hot places allowance—artificially raised to between 46°C and 54°C	20.2(f)(iii)	2.9	0.66	per hour
Hot places allowance—artificially raised to above 54°C	20.2(f)(iii)	3.8	0.86	per hour

## Food, Beverage and Tobacco Manufacturing Award 2020

Allowance	Clause	% of standard rate	\$	Payable
Wet places allowance	20.2(f)(iv)	2.9	0.66	per hour
Confined spaces allowance	20.2(f)(v)	3.8	0.86	per hour
Dirty, dusty or offensive work	20.2(f)(vi)	2.9	0.66	per hour
Using fumigation gas	20.2(f)(vii)	38.2	8.67	per day

<sup>1</sup> These allowances apply for all purposes of this award.

### C.1.2 Adjustment of wage-related allowances

Wage-related allowances are adjusted in accordance with increases to wages and are based on a percentage of the [standard rate](#) as specified.

## C.2 Expense-related allowances

**C.2.1** The following expense-related allowances will be payable to employees in accordance with clause 20—Allowances.

Allowance	Clause	\$	Payable
Meal allowance—overtime	20.3(a)	14.70	per rest break
Vehicle allowance	20.3(c)	0.78	per km
Travelling time payment—meal allowance	20.3(f)(v)	14.70	per meal

### C.2.2 Adjustment of expense-related allowances

- (a) At the time of any adjustment to the [standard rate](#), each expense-related allowance must be increased by the relevant adjustment factor. The relevant adjustment factor for this purpose is the percentage movement in the applicable index figure most recently published by the Australian Bureau of Statistics since the allowance was last adjusted.
- (b) The applicable index figure is the index figure published by the Australian Bureau of Statistics for the Eight Capitals Consumer Price Index (Cat No. 6401.0), as follows:

Allowance	Applicable Consumer Price Index figure
Meal allowance	Take away and fast foods sub-group
Vehicle allowance	Private motoring sub-group

## Schedule D—School-based Apprentices

- D.1** This schedule applies to school-based apprentices. A school-based apprentice is a person who is undertaking an apprenticeship in accordance with this schedule while also undertaking a course of secondary education.
- D.2** A school-based apprenticeship may be undertaken in the trades covered by this award under a training agreement or contract of training for an apprentice declared or recognised by the relevant State or Territory authority.
- D.3** The relevant minimum wages for full-time junior and adult apprentices provided for in this award, calculated hourly, will apply to school-based apprentices for total hours worked including time deemed to be spent in off-the-job training.
- D.4** For the purposes of clause D.3, where an apprentice is a full-time school student, the time spent in off-the-job training for which the apprentice must be paid is **25%** of the actual hours worked each week on-the-job. The wages paid for training time may be averaged over the semester or year.
- D.5** A school-based apprentice must be allowed, over the duration of the apprenticeship, the same amount of time to attend off-the-job training as an equivalent full-time apprentice.
- D.6** For the purposes of this schedule, off-the-job training is structured training delivered by a Registered Training Organisation separate from normal work duties or general supervised practice undertaken on the job.
- D.7** The duration of the apprenticeship must be as specified in the training agreement or contract for each apprentice but must not exceed 6 years.
- D.8** School-based apprentices progress through the relevant wage scale at the rate of 12 months progression for each 2 years of employment as an apprentice or at the rate of competency based progression if provided for in this award.
- D.9** The apprentice wage scales are based on a standard full-time apprenticeship of 4 years (unless the apprenticeship is of 3 years duration) or stages of competency based progression (if provided for in this award). The rate of progression reflects the average rate of skill acquisition expected from the typical combination of work and training for a school-based apprentice undertaking the applicable apprenticeship.
- D.10** If an apprentice converts from school-based to full-time, the successful completion of competencies (if provided for in this award) and all time spent as a full-time apprentice will count for the purposes of progression through the relevant wage scale in addition to the progression achieved as a school-based apprentice.
- D.11** School-based apprentices are entitled pro rata to all of the other conditions in this award.

## Schedule E—National Training Wage

### E.1 Definitions

#### E.1.1 In this schedule:

**adult trainee** means a trainee who would qualify for the highest minimum wage in wage level A, B or C if covered by that wage level.

**approved training**, in relation to a trainee, means the training specified in the training contract of the trainee.

**Australian Qualifications Framework (AQF)** means the national framework for qualifications in post-compulsory education and training.

**relevant State or Territory training authority** means a body in the relevant State or Territory that has power to approve traineeships, and to register training contracts, under the relevant State or Territory vocational education and training legislation.

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

*Apprenticeship and Traineeship Act 2001 (NSW);*

*Education and Training Reform Act 2006 (Vic);*

*Training and Skills Development Act 2008 (SA);*

*Training and Skills Development Act 2016 (NT);*

*Training and Tertiary Education Act 2003 (ACT);*

*Training and Workforce Development Act 2013 (Tas);*

*Vocational Education and Training Act 1996 (WA);*

*Further Education and Training Act 2014 (Qld).*

**trainee** means an employee undertaking a traineeship under a training contract.

**traineeship** means a system of training that:

- (a) has been approved by the relevant State or Territory training authority; and
- (b) meets the requirements of a training package developed by the relevant Skills Service Organisation and endorsed by the Australian Industry and Skills Committee; and
- (c) leads to an AQF certificate level qualification.

**training contract** means an agreement for a traineeship made between an employer and an employee that is registered by the relevant State or Territory training authority.

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification that have been endorsed for an industry or enterprise by the Australian Industry and Skills Committee.

**wage level A, B or C** see clause E.4.

**Year 10** includes any year before Year 10.

**E.1.2** A reference in this schedule to **out of school** refers only to periods out of school beyond Year 10 as at 1 January in each year and is taken to:

- (a) include any period of schooling beyond Year 10 that was not part of, or did not contribute to, a completed year of schooling; and
- (b) include any period during which a trainee repeats, in whole or part, a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year after the completion during that year of a year of schooling.

## **E.2 Coverage**

**E.2.1** Subject to clauses E.2.2 to E.2.5, this schedule applies to an employee covered by this award who is undertaking a traineeship and whose training package and AQF certificate level are allocated to a wage level by clause E.6 or by clause E.4.4.

**E.2.2** This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in clause E.6.

**E.2.3** This schedule does not apply to:

- (a) the apprenticeship system; or
- (b) qualifications not identified in training packages; or
- (c) qualifications in training packages that are not identified as appropriate for a traineeship.

**E.2.4** If this schedule is inconsistent with other provisions of this award relating to traineeships, the other provisions prevail.

**E.2.5** This schedule ceases to apply to an employee at the end of the traineeship.

## **E.3 Types of traineeship**

The following types of traineeship are available:

**E.3.1** A full-time traineeship based on 38 ordinary hours per week, with **20%** of those hours being approved training;

**E.3.2** A part-time traineeship based on fewer than 38 ordinary hours per week, with **20%** of those hours being approved training provided:

- (a) wholly on the job; or
- (b) partly on the job and partly off the job; or
- (c) wholly off the job.

**E.4 Minimum rates**

**E.4.1 Minimum weekly rates for full-time traineeships**

**(a) Wage level A**

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level A by clause E.6.1 is the weekly rate specified in column 2 of **Table 1—Wage level A minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in column 1.

**Table 1—Wage level A minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)**

Column 1 Experience level of trainee	Column 2		
	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	332.80	366.50	436.60
Plus 1 year out of school	366.50	436.60	508.10
Plus 2 years out of school	436.60	508.10	591.30
Plus 3 years out of school	508.10	591.30	677.00
Plus 4 years out of school	591.30	677.00	
Plus 5 or more years out of school	677.00		

NOTE: See clause E.4.3 for other minimum wage provisions that affect clause E.4.1(a).

**(b) Wage Level B**

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level B by clause E.6.2 is the weekly rate specified in Column 2 of **Table 2—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

**Table 2—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)**

Column 1 Experience level of trainee	Column 2		
	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	332.80	366.50	424.80
Plus 1 year out of school	366.50	424.80	488.60
Plus 2 years out of school	424.80	488.60	573.10
Plus 3 years out of school	488.60	573.10	653.70
Plus 4 years out of school	573.10	653.70	
Plus 5 or more years out of school	653.70		

NOTE: See clause E.4.3 for other minimum wage provisions that affect clause E.4.1(b).

**(c) Wage Level C**

The minimum rate for a full-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level C by clause E.6.3 is the weekly rate specified in Column 2 of **Table 3—Wage level C minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

**Table 3—Wage level C minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)**

Column 1 Experience level of trainee	Column 2		
	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	332.80	366.50	424.80
Plus 1 year out of school	366.50	424.80	478.20
Plus 2 years out of school	424.80	478.20	534.30
Plus 3 years out of school	478.20	534.30	595.20
Plus 4 years out of school	534.30	595.20	
Plus 5 or more years out of school	595.20		

NOTE: See clause E.4.3 for other minimum wage provisions that affect clause E.4.1(c).

**(d) AQF Certificate Level IV traineeships**

- (i) The minimum rate for a full-time trainee undertaking an AQF Certificate Level IV traineeship is the minimum rate for the relevant full-time AQF Certificate Level III traineeship increased by **3.8%**.
- (ii) The minimum rate for a full-time adult trainee undertaking an AQF Certificate Level IV traineeship is the weekly rate specified in column 2 or 3 of **Table 4—Minimum weekly rate for full-time adult trainees (AQF Certificate Level IV traineeship)** according to the year of the traineeship specified in those columns and the relevant wage level for the relevant AQF Certificate Level III traineeship specified in column 1:

**Table 4—Wage level B minimum weekly rate for full-time trainees (AQF Certificate Level I–III traineeship)**

Column 1	Column 2	Column 3
Wage level	First year of traineeship per week	Second and subsequent years of traineeship per week
	\$	\$
A	703.20	730.40
B	678.40	704.40
C	617.40	640.70

NOTE: See clause E.4.3 for other minimum wage provisions that affect clause E.4.1(d).

**E.4.2 Minimum hourly rates for part-time traineeships**

**(a) Wage level A**

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level A by clause E.6.1 is the hourly rate specified in column 2 of **Table 5—Wage level A minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in column 1.

**Table 5—Wage level A minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)**

<b>Column 1</b> Experience level of trainee	<b>Column 2</b> Highest year of schooling completed		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	10.95	12.07	14.37
Plus 1 year out of school	12.07	14.37	16.73
Plus 2 years out of school	14.37	16.73	19.45
Plus 3 years out of school	16.73	19.45	22.26
Plus 4 years out of school	19.45	22.26	
Plus 5 or more years out of school	22.26		

NOTE: See clause E.4.2(f) for calculating the actual minimum wage. See also clause E.4.3 for other minimum wage provisions that affect clause E.4.2(a).

**(b) Wage Level B**

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level B by clause E.6.2 is the hourly rate specified in Column 2 of **Table 6—Wage level B minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

**Table 6—Wage level B minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)**

<b>Column 1</b> Experience level of trainee	<b>Column 2</b> Highest year of schooling completed		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per hour</b>	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	10.95	12.07	13.99
Plus 1 year out of school	12.07	13.99	16.08
Plus 2 years out of school	13.99	16.08	18.87
Plus 3 years out of school	16.08	18.87	21.52
Plus 4 years out of school	18.87	21.52	
Plus 5 or more years out of school	21.52		

NOTE: See clause E.4.2(f) for calculating the actual minimum wage. See also clause E.4.3 for other minimum wage provisions that affect clause E.4.2(b).

**(c) Wage Level C**

The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage level C by clause E.6.2 is the hourly rate specified in Column 2 of **Table 7—Wage level C minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)** according to the highest year of schooling completed by the trainee specified in that column and the experience level of the trainee specified in Column 1.

**Table 7—Wage level C minimum hourly rate for part-time trainees (AQF Certificate Level I–III traineeship)**

Column 1 Experience level of trainee	Column 2 Highest year of schooling completed		
	Year 10 per hour	Year 11 per hour	Year 12 per hour
	\$	\$	\$
School leaver	10.95	12.07	13.99
Plus 1 year out of school	12.07	13.99	15.73
Plus 2 years out of school	13.99	15.73	17.57
Plus 3 years out of school	15.73	17.57	19.58
Plus 4 years out of school	17.57	19.58	
Plus 5 or more years out of school	19.58		

NOTE: See clause E.4.2(f) for calculating the actual minimum wage. See also clause E.4.3 for other minimum wage provisions that affect clause E.4.2(c).

**(d) School-based traineeships**

The minimum hourly rate for a part-time trainee who works ordinary hours and is undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to wage levels A, B or C by clause E.6 is the hourly rate in column 1 or 2 of **Table 8—Minimum hourly rate for part-time trainees (school-based AQF Certificate Level I–III traineeship)** according to the year of schooling of the trainee.

**Table 8—Minimum hourly rate for part-time trainees (school-based AQF Certificate Level I–III traineeship)**

<b>Column 1</b>	<b>Column 2</b>
<b>Year 11 or lower</b>	<b>Year 12</b>
<b>per hour</b>	<b>per hour</b>
<b>\$</b>	<b>\$</b>
10.95	12.07

NOTE: See clause E.4.2(f) for calculating the actual minimum wage. See also clause E.4.3 for other minimum wage provisions that affect this clause E.4.2(d).

**(e) AQF Certificate Level IV traineeships**

- (i) The minimum hourly rate for a part-time trainee undertaking an AQF Certificate Level IV traineeship is the minimum hourly rate for the relevant part-time AQF Certificate Level III traineeship increased by **3.8%**.
- (ii) The minimum hourly rate for a part-time adult trainee undertaking an AQF Certificate Level IV traineeship is the hourly rate in column 2 or 3 of **Table 9—Minimum hourly rate for part-time adult trainees (AQF Certificate Level IV traineeship)**, according to the year of the traineeship specified in those columns and the relevant wage level for the relevant AQF Certificate Level III traineeship specified in column 1:

**Table 9—Minimum hourly rate for part-time adult trainees (AQF Certificate Level IV traineeship)**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Wage level</b>	<b>First year of traineeship</b>	<b>Second and subsequent years of traineeship</b>
	<b>per hour</b>	<b>per hour</b>
	<b>\$</b>	<b>\$</b>
A	23.12	24.03
B	22.29	23.15
C	20.31	21.08

NOTE: See clause E.4.2(f) for calculating the actual minimum wage. See also clause E.4.3 for other minimum wage provisions that affect this clause E.4.2(e).

**(f) Calculating the actual minimum wage**

- (i) If fewer than 38 (or an average of 38) ordinary hours of work per week is considered full-time at the workplace by the employer, the appropriate minimum hourly rate for a part-time trainee is obtained by multiplying the relevant minimum hourly rate in clauses E.4.2(a) to E.4.2(e) by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.

- (ii) If the approved training for a part-time traineeship is provided wholly off-the-job by a registered training organisation, for example at school or at TAFE, the relevant minimum hourly rate in clauses E.4.2(a) to E.4.2(e) applies to each ordinary hour worked by the trainee.
- (iii) If the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum hourly rate in clauses E.4.2(a) to E.4.2(e) minus **20%** applies to each ordinary hour worked by the trainee.

#### **E.4.3 Other minimum wage provisions**

- (a) Clause E.4.3 applies despite anything to the contrary in clause E.4.2.
- (b) An employee who was employed by an employer immediately before becoming a trainee with that employer must not suffer a reduction in their minimum rate of pay because of becoming a trainee.
- (c) For the purpose of determining whether a trainee has suffered a reduction as mentioned in clause E.4.3(b), casual loadings are to be disregarded.
- (d) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, if a higher minimum wage is provided for the new AQF certificate level.

#### **E.4.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by clause E.6 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to wage level B.

### **E.5 Employment conditions**

- E.5.1** A trainee undertaking a school-based traineeship may agree to be paid an additional loading of **25%** on all ordinary hours worked instead of being paid annual leave, paid personal/carer’s leave, paid compassionate leave and paid absence on public holidays. However, if the trainee works on a public holiday, the public holiday provisions of this award apply.
- E.5.2** A trainee is entitled to be released from work without loss of pay and without loss of continuity of employment to attend any training and assessment specified in, or associated with, the training contract.
- E.5.3** Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee’s wages and determining the trainee’s employment conditions.

**E.5.4** The time to be included for the purpose of calculating the wages for part-time trainees whose approved training is wholly off-the-job is determined by clauses E.4.2(f)(ii) and E.4.2(f)(iii) and not by clause E.5.3.

**E.5.5** Subject to clause E.2.4, this award applies to a trainee in the same way that it applies to an employee who is not a trainee except as otherwise expressly provided by this schedule.

**E.6 Allocation of traineeships to wage levels**

The wage levels applying to training packages and their AQF certificate levels are:

**E.6.1 Wage level A**

<b>Training package</b>	<b>AQF certificate level</b>
Business Services	I, II, III
Food Processing Industry	III
Information and Communications Technology	II, III
Laboratory Operations	II, III
Manufacturing	II, III
Metal and Engineering (Technical)	III
Plastics, Rubber and Cablemaking	III
Retail Services	III
Training and Assessment	III
Transport and Logistics	III

**E.6.2 Wage level B**

<b>Training package</b>	<b>AQF certificate level</b>
Food Processing Industry	I, II
Retail Services	I, II

**E.6.3 Wage level C**

<b>Training package</b>	<b>AQF certificate level</b>
Agriculture, Horticulture and Conservation and Land Management	I, II, III

## Schedule F—Supported Wage System

**F.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this award.

**F.2** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*(Cth), as amended from time to time, or any successor to that scheme.

**relevant minimum wage** means the minimum wage prescribed in this award for the class of work for which an employee is engaged.

**supported wage system (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au).

**SWS wage assessment agreement** means the document in the form required by the Department of Social Services that records the employee's productive capacity and agreed wage rate.

### **F.3 Eligibility criteria**

**F.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this award, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**F.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this award relating to the rehabilitation of employees who are injured in the course of their employment.

### **F.4 Supported wage rates**

**F.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

## Food, Beverage and Tobacco Manufacturing Award 2020

Assessed capacity (clause F.5)	Relevant minimum wage
%	%
10	10
20	20
30	30
40	40
50	50
60	60
70	70
80	80
90	90

**F.4.2** Provided that the minimum amount payable must be not less than **\$87** per week.

**F.4.3** Where an employee's assessed capacity is **10%**, they must receive a high degree of assistance and support.

### **F.5 Assessment of capacity**

**F.5.1** For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the SWS by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

**F.5.2** All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the [Act](#).

### **F.6 Lodgement of SWS wage assessment agreement**

**F.6.1** All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with the Fair Work Commission.

**F.6.2** All SWS wage assessment agreements must be agreed and signed by the employee and employer parties to the assessment. Where a union which has an interest in the award is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

### **F.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the SWS.

## **F.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the same terms and conditions of employment as other workers covered by this award on a pro rata basis.

## **F.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

## **F.10 Trial period**

- F.10.1** In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- F.10.2** During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.
- F.10.3** The minimum amount payable to the employee during the trial period must be no less than \$87 per week.
- F.10.4** Work trials should include induction or training as appropriate to the job being trialled.
- F.10.5** Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause F.5.

## Schedule G—Agreement for Time Off Instead of Payment for Overtime

Link to PDF copy of [Agreement for Time Off Instead of Payment for Overtime](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee may take time off instead of being paid for the following amount of overtime that has been worked by the employee:**

Date and time overtime started: \_\_\_/\_\_\_/20\_\_\_ \_\_\_ am/pm

Date and time overtime ended: \_\_\_/\_\_\_/20\_\_\_ \_\_\_ am/pm

Amount of overtime worked: \_\_\_\_\_ hours and \_\_\_\_\_ minutes

**The employer and employee further agree that, if requested by the employee at any time, the employer must pay the employee for overtime covered by this agreement but not taken as time off. Payment must be made at the overtime rate applying to the overtime when worked and must be made in the next pay period following the request.**

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_/\_\_\_/20\_\_\_

## Schedule H—Agreement to Take Annual Leave in Advance

Link to PDF copy of [Agreement to Take Annual Leave in Advance](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree that the employee will take a period of paid annual leave before the employee has accrued an entitlement to the leave:**

The amount of leave to be taken in advance is: \_\_\_\_ hours/days

The leave in advance will commence on: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

[If the employee is under 18 years of age - include:]

**I agree that:**

**if, on termination of the employee's employment, the employee has not accrued an entitlement to all of a period of paid annual leave already taken under this agreement, then the employer may deduct from any money due to the employee on termination an amount equal to the amount that was paid to the employee in respect of any part of the period of annual leave taken in advance to which an entitlement has not been accrued.**

Name of parent/guardian: \_\_\_\_\_

Signature of parent/guardian: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

## Schedule I—Agreement to Cash Out Annual Leave

Link to PDF copy of [Agreement to Cash Out Annual Leave](#).

Name of employee: \_\_\_\_\_

Name of employer: \_\_\_\_\_

**The employer and employee agree to the employee cashing out a particular amount of the employee's accrued paid annual leave:**

The amount of leave to be cashed out is: \_\_\_\_\_ hours/days

The payment to be made to the employee for the leave is: \$\_\_\_\_\_ subject to deduction of income tax/after deduction of income tax (strike out where not applicable)

The payment will be made to the employee on: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Signature of employee: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

Name of employer representative: \_\_\_\_\_

Signature of employer representative: \_\_\_\_\_

Date signed: \_\_\_\_/\_\_\_\_/20\_\_\_\_

<p><i>Include if the employee is under 18 years of age:</i></p> <p>Name of parent/guardian: _____</p> <p>Signature of parent/guardian: _____</p> <p>Date signed: ____/____/20____</p>
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## Schedule J—Part-day Public Holidays

- J.1** This schedule operates in conjunction with award provisions dealing with public holidays.
- J.2** Where a part-day public holiday is declared or prescribed between 6.00 pm and midnight, or 7.00 pm and midnight on Christmas Eve (24 December in each year) or New Year’s Eve (31 December in each year) the following will apply on Christmas Eve and New Year’s Eve and will override any provision in this award relating to public holidays to the extent of the inconsistency:
- (a) All employees will have the right to refuse to work on the part-day public holiday if the request to work is not reasonable or the refusal is reasonable as provided for in the [NES](#).
  - (b) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of exercising their right under the [NES](#) does not work, they will be paid their ordinary rate of pay for such hours not worked.
  - (c) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday but as a result of being on annual leave does not work, they will be taken not to be on annual leave during the hours of the declared or prescribed part-day public holiday that they would have usually been rostered to work and will be paid their ordinary rate of pay for such hours.
  - (d) Where a part-time or full-time employee is usually rostered to work ordinary hours on the declared or prescribed part-day public holiday, but as a result of having a rostered day off (RDO) provided under this award, does not work, the employee will be taken to be on a public holiday for such hours and paid their ordinary rate of pay for those hours.
  - (e) Where an employee works any hours on the declared or prescribed part-day public holiday they will be entitled to the appropriate public holiday penalty rate (if any) in this award for those hours worked.
  - (f) An employee not rostered to work on the declared or prescribed part-day public holiday, other than an employee who has exercised their right in accordance with clause J.2(a), will not be entitled to another day off, another day’s pay or another day of annual leave as a result of the part-day public holiday.
  - (g) Nothing in this schedule affects the right of an employee and employer to agree to substitute public holidays.
- J.3** An employer and employee may agree to substitute another part-day for a part-day that would otherwise be a part-day public holiday under the [NES](#).
- J.4** This schedule is not intended to detract from or supplement the [NES](#).

## **Schedule X—Additional Measures During the COVID-19 Pandemic**

Schedule X inserted as a result of [\[2020\] FWCFCB 1837](#); [PR718141](#).

**X.1** Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until 30 June 2020. The period of operation can be extended on application.

**X.2** During the operation of Schedule X, the following provisions apply:

### **X.2.1 Unpaid pandemic leave**

**(a)** Subject to clauses X.2.1(b), (c) and (d), any employee is entitled to take up to 2 weeks' unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

**(b)** The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

**(c)** An employee who has given their employer notice of taking leave under clause X.2.1(a) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).

**(d)** A period of leave under clause X.2.1(a) must start before 30 June 2020, but may end after that date.

**(e)** Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this award and the NES.

NOTE: The employer and employee may agree that the employee may take more than 2 weeks' unpaid pandemic leave.

### **X.2.2 Annual leave at half pay**

**(a)** Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.

**(b)** Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.

**(c)** A period of leave under clause X.2.2(a) must start before 30 June 2020, but may end after that date.

EXAMPLE: Instead of an employee taking one week's annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks' annual leave on half pay. In this example:

**Food, Beverage and Tobacco Manufacturing Award 2020**

- the employee's pay for the 2 weeks' leave is the same as the pay the employee would have been entitled to for one week's leave on full pay (where one week's full pay includes leave loading under the Annual Leave clause of this award); and
- one week of leave is deducted from the employee's annual leave accrual.

NOTE 1: A employee covered by this award who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the Act.

NOTE 2: Under section 340(1) of the Act, an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the Act, an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee's prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3: Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.